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## BY-LAWS OF THE TOWN OF WALPOLE

### ARTICLE I

#### TOWN MEETING

Section 1. The Selectmen shall give notice of Town Meeting except adjourned Town Meetings by publication in a locally distributed newspaper and by posting attested copies of the warrant calling the same in at least two (2) public places in each precinct and not less than seven (7) days before the day appointed for such meeting and not less than fourteen (14) days before any Special Town Meeting.

Section 2. Notice of every adjourned Town Meeting, adjourned for more than seven (7) days, shall, if time permits, be advertised in a locally distributed newspaper as soon as practical after adjournment.

Section 3. On matters requiring a two-thirds vote by statute, a count need not be taken unless the vote so declared is immediately questioned by seven or more voters as provided in General Laws chapter 39, section 15.

### ARTICLE II

#### LEGAL AFFAIRS

Section 1. The Board of Selectmen shall appoint an Attorney-At-Law to act as Town Counsel for no longer than the term of three (3) years, and said Board shall have full authority to employ special or additional counsel whenever in its judgment necessity therefore arises.

Section 2. The Board of Selectmen shall have full authority, as agents of the Town, to institute, prosecute and compromise suits brought against it, and to appear in proceedings before any tribunal, unless it is otherwise specially voted by the Town or as may be required by the General Laws of the Commonwealth.

Section 3. Whenever it shall be necessary to execute any deed conveying land or any other instrument required to carry into effect any vote of the Town, the same shall be executed by the Board of Selectmen in behalf of the Town, unless the Town shall otherwise vote in any special case, or as may be required by the General Laws of the Commonwealth.

Section 4. The Town Counsel shall draft or review all bonds, leases, obligations, conveyances and other legal instruments, advise on all questions relating to warrants for Town meetings, and do every professional act relating to Town affairs which may be required of counsel, by vote of the Town or any board and/or commission or Town officers. Also when required by said boards or any committee of the Town, counsel shall furnish a written opinion on any legal question that may be submitted in writing to counsel, and counsel shall at all times furnish legal advice to any officer of the Town who may require Counsel's opinion on any subject concerning the duties incumbent on such an officer by virtue of this office. Counsel shall, when required by Town officers, prosecute any suits ordered to be brought by the Town, and shall appear at any court in

the Commonwealth in defense of any action or suits brought against the Town or its officers, in their official capacity. Counsel shall also, whenever counsel's services may be required, try and argue any and all cases whether in law or equity, to which the Town shall be party before any tribunal in the Commonwealth, or before any board of referees or commissioners, and appear at any and all hearings in behalf of the Town.

### ARTICLE III

#### FINANCIAL AFFAIRS

Section 1. The fiscal year of the Town shall be as required or allowed by the General Laws of the Commonwealth of Massachusetts.

Section 2. It shall be the duty of the Board of Selectmen to take charge of all bonds of all Town Officials/Employees and deposit them with the Town Accountant for safety.

Section 3. No bill, charge or account against the Town shall be paid without the written approval of the person, persons, board or committee contracting the same.

Section 4. No Town officer having control of expenditures of the public money shall incur any debt or obligation on account of the Town in any department beyond the amount appropriated therefore by the Town, except as provided in the General Laws. No order or warrant shall be drawn by the Board of Selectmen or other boards upon the treasury without an appropriation by vote of the Town nor against any appropriation in excess of the same, except that such payments may be made as are required to protect the Town where it may be liable in actions at law for damage as provided in the General Laws.

Section 5. Any portion of any appropriation remaining unexpended at the close of the financial year shall revert to the Town Treasury, unless otherwise provided by law of the Commonwealth.

Section 6. No Town officer and no salaried employee of the Town or any agent of any such officer or employee shall receive any compensation for work done or service performed by him or her for the Town except his or her official salary and fees allowed by the law, without permission of the Board of Selectmen or other board authorizing such work or service; expressed in a vote which shall appear on the records of such board with the reason therefore.

Section 7. Unless otherwise provided by a vote of Town Meeting, the Town Administrator, subject to final approval of the Board of Selectmen, is authorized to enter into any contract for the exercise of the Town's corporate powers, on such term and conditions as are deemed appropriate. Notwithstanding the foregoing, the Town Administrator shall execute all contracts on behalf of the Town. The Town Administrator, with the approval of the Board of Selectman, may enter into contracts for the procurement or the disposal of supplies or services for terms up to five (5) years, unless otherwise specifically provided for by law or vote of the Town Meeting.

Section 8. The procurement of goods and services shall be in conformity with the Uniform Procurement Act, M.G.L. Chapter 30B.

## Section 9.

A. The Tax Collector or other Town official responsible for records of all Town taxes, assessments, betterments and other Town charges, hereinafter referred to as the Tax Collector, shall annually furnish to each department, board, commission or division, that issues licenses or permits including renewals and transfers, hereinafter referred to as the Licensing Authority, a list of any person, corporation, or business enterprise, hereinafter referred to as the party, that has neglected or refused to pay any Town taxes, fees, assessments, betterments or other Town charges for not less than a twelve month period, and that such party has not filed in good faith a pending application for an abatement of such tax or a pending petition before the Appellate Tax Board.

B. The Licensing Authority may deny, revoke or suspend any license or permit, including renewals and transfers of any party whose name appears on said list furnished to the Licensing Authority from the Tax Collector, or with respect to any activity, event or other matter which is the subject of such license or permit and which activity, event or matter is carried out or exercised or is to be carried out or to be exercised on or about real estate owned by any party whose name appears on said list furnished to the Licensing Authority from the Tax Collector: provided, however, that written notice of the hearing is given to the party and the Tax Collector, as required by applicable provisions of law and the party is given a hearing, such hearing to be held not earlier than fourteen days after said notice. Said list shall be prima facie evidence for denial, revocation or suspension of said license or permit to any party. The Tax Collector shall have the right to intervene in any hearing conducted with respect to such license denial, revocation or suspension. Any findings made by the Licensing Authority with respect to such license denial, revocation or suspension shall be made only for the purposed of such proceedings and shall not be relevant to or introduced in any other proceeding at law except of any appeal from such license denial, revocation or suspension. Any license or permit denied, suspended or revoked under this section shall not be reissued or renewed until the Licensing Authority receives a certificate of good standing issued by the Tax Collector that the party is in good standing with respect to any and all Town taxes, fees, assessment, betterments or other Town charges, payable to the Town as of the date of issuance of said certificate.

C. Any party shall be given an opportunity to enter into a payment agreement, thereby allowing the licensing authority to issue a certificate indicating said limitations to the license or permit and the validity of said license shall be conditioned upon the satisfactory compliance with said agreement. Failure to comply with said agreement shall be grounds for the suspension or revocation of said license or permit, provided, however, that the holder be given notice and a hearing as required by applicable provisions of law.

D. The Board of Selectmen may waive such denial, suspension or revocation if it finds that there is not a direct or indirect business interest by the property owner its officers or stockholders if any, or members of his or her immediate family (as defined in General Law, Chapter 258A, Section 1), in the business or activity in or on said property. This By-law shall not apply to the following licenses and permits; open burning; Section thirteen of Chapter Forty-eight; bicycle permits, Section Eleven A of Chapter Eighty-five; sales of articles for charitable purposes, Section Thirty-three of Chapter One Hundred One; children work permits, Section Sixty-nine of Chapter One Hundred Forty-nine; clubs, associations dispensing food or beverage licenses,

Section Twenty-one E of Chapter One Hundred Forty; dog licenses, Section One Hundred Thirty-Seven of Chapter One Hundred Forty; fishing, hunting, trapping licenses,

Section Twelve of Chapter One Hundred Thirty-one; marriage licenses, Section Twenty-eight of Chapter Two Hundred Seven; and theatrical events, public exhibition permits, Section One Hundred Eighty-one of Chapter One Hundred Forty. Sections and Chapters refer to the General Laws of the Commonwealth.

Section 10. All municipal charges and bills shall be due and payable within thirty days of the date of notice of said charge or bill unless otherwise specified in said notice of charge or bill. Interest shall accrue, at the rate at which interest may be charged on tax bills under the provisions of M.G.L. Chapter 59, Section 57, as amended, if any such charge or bill remains unpaid after the expiration of thirty days from the date of such charge or bill or such other specified payment period.

Section 11. The disposal of surplus supplies shall be in conformity with the uniform Procurement Act, Massachusetts General Laws, Chapter 30B.

Section 12. Brownfields Tax Abatement Agreements

A. Purpose

It is the intent of the Town to offer tax abatements to encourage the continued environmental cleanup and redevelopment of sites zoned for industrial and commercial use from or at which there has been a release of oil or hazardous material.

B. Subject Properties

Property which may be the subject of tax abatement agreements pursuant to this by-law must:

1. Be a site or portion of a site from or at which there has been a release of oil or hazardous material;
2. Be owned by an eligible person, as that term is defined in G.L. c.21E, sec 2;
3. Be zoned for commercial or industrial use.

C. Abatement Agreements

1. The Finance Director is hereby authorized to negotiate agreements for the abatement of real estate taxes (hereinafter, "Abatement Agreements") with owners of eligible properties, the terms of which Abatement Agreements shall be subject to approval by the Board of Selectmen.
2. Abatement Agreements may allow for reductions in outstanding taxes, interest, and/or penalties.
3. Abatement Agreements shall include, but not be limited to:
  - a. The amount of outstanding real estate taxes;
  - b. The percent of interest to accrue if determined applicable by the Finance Director and the property owner;
  - c. The description of quantifiable monthly payments;
  - d. The inception date of monthly payments;
  - e. The date of the final payment;
  - f. The late penalties to be imposed; and

- g. Any and all other contractual terms as arranged between the Finance Director and the property owner.
- 4. All Abatement Agreements shall be signed by the Chairman of the Board of Selectmen and the property owner, whose signatures shall be notarized, and attested to by Town Clerk.
- 5. Copies of all Abatement Agreements shall be provided to the Massachusetts Department of Environmental Protection, the United States Environmental Protection Agency, the Massachusetts Commissioner of Revenue, the Board of Selectmen, and the property owner.

## ARTICLE IV

### RECORDS AND REPORTS

Section 1. All boards, standing committees and officers of the Town shall cause records of their doings and accounts to be kept in suitable books. Said books shall be kept in their respective places in the Town offices and shall not be removed therefrom. Said record books shall be open to the inspection of citizens of the Town at any reasonable time, but shall remain during such inspection under the supervision of the board, committee or officer designated to keep charge thereof. In the case of any board or committee that does not have a paid clerk or secretary, the Town Clerk, pursuant to Chapter 66, Section 7 of the General Laws of the Commonwealth, shall have custody of copies of their respective records made available for public inspection. The Board of Selectman shall enforce this section.

#### Section 2.

A. All boards, standing committees, special committees and officers of the Town having charge of the expenditure of money shall, in the Annual Town Report, give the citizens a fair and full understanding of the objects and methods of such expenditures, or non-expenditures, of previously appropriated funds, with reasons therefore, referring, however, to the report of the Treasurer or the Town Accountant for specific details and shall make therein such recommendations as they deem proper.

B. All reports shall be placed in the hands of the Board of Selectmen for printing and publishing in accordance with the General Laws of Massachusetts.

C. The Board of Selectmen shall annually cause to be made available for the taxpayers of the Town, the reports of the officers of the various departments and boards of the Town, and reports upon such matters as directed by the Town and these By-laws. The Board of Selectmen shall have the custody and supervision of the distribution of said Annual Town Report.

D. The Town Clerk shall furnish for publication in the Annual Town Report an abstract of the official records of all Town Meetings held during the preceding year.

E. The Town Clerk shall furnish for publication in the Annual Town Report an abstract of the vital statistics of the Town for the preceding year and such other data as may be requested by the Board of Selectmen or its agents.

Section 3. The Board of Selectmen shall cause to be created a separate single master schedule or chart of fees, fines, and penalties to be maintained by the Town Clerk. Said chart shall be available during regular office hours for public reference. This schedule or chart shall be the official schedule of fees, fines, and penalties for the Town of Walpole.

Section 4. Whenever a Town way is laid out or altered, a plan thereof shall be made and filed in the office of the Town Clerk, with the location thereof, and it shall be the duty of the Town Clerk to keep a book of records for the sole purpose of recording the location of all highways and Town ways within the Town, with an index thereto.

## ARTICLE V

### TOWN MEETING COMMITTEES

Section 1. It shall be the duty of all authorized Town Meeting Committees to report upon matters referred to them at the next Annual Town Meeting unless otherwise directed.

Section 2. It shall be the duty of the Town Clerk to immediately notify in writing, all members of any committees of the following;

- A. Of any person that may be elected or appointed as a result of any Town Meeting,
- B. Of all business upon which said committee has been designated to act,
- C. The name of the committee,
- D. A complete list of all appointees.

Said notice shall be to any committee that may be elected or appointed as a result of any Town Meeting.

Section 3. It shall be the duty of the Town Moderator to designate a Chairman Pro Tem, for committees authorized by Town Meeting, to promptly call all members of the designated Committee together for organizational purposes.

## ARTICLE VI

### FINANCE COMMITTEE

Section 1. All of the articles in the warrant of a Town Meeting shall be referred to a committee of fifteen (15) legal voters to be appointed by the Moderator and known as the Finance Committee.

Section 2. The Finance Committee shall annually in the month of July, elect from its membership a Chairman, Vice-Chairman and Secretary and shall keep a true record of its proceedings. If such elections are not made promptly by the Committee itself, the Moderator shall cause a meeting of said board to be held for the purpose of conducting said elections.



Section 3. The Finance Committee shall act, on all articles on the warrant, as an advisory committee to the Town and shall report in writing its recommendations. These recommendations shall be distributed to each residence not later than seven days prior to each Annual or Special Town Meeting.

Section 4. The Finance Committee may require the various officers and boards of the Town to appear before it at such time and place as the committee may appoint, for information and conference upon matters referred to said committee. It shall be the duty of said officers and boards to appear before said committee at the specified time and place.

Section 5. The Finance Director shall serve as a non-voting member ex-officio of the Finance Committee.

Section 6. Any member of the Finance committee shall be deemed to have vacated their appointment upon election to Town Office except for Representative Town Meeting Member.

## ARTICLE VII

### BUILDING MAINTENANCE ADVISORY COMMITTEE

Section 1. A Building Maintenance Advisory Committee shall be appointed by the Moderator; this Committee shall consist of no less than six members whose terms of office shall be three years. The Town Administrator shall be considered as a permanent advisor to the Committee. Members of the Building Maintenance Advisory Committee shall serve without personal remuneration.

Section 2. The Building Maintenance Advisory Committee shall at least once a year make an inspection of all public buildings and grounds and make a written report to the Board of Selectmen, with copies to the Finance Committee and Town Clerk, specifying any and all repairs and alterations deemed necessary. This Committee shall also act in an advisory capacity to any building committee.

## ARTICLE VIII

### STREET NAMES AND NUMBERS

Section 1. Street names shall be assigned as provided for in this section.

- A. The Town Engineer shall maintain an up to date list of all street names being used in the Town for both accepted and unaccepted streets.
- B. The Planning Board shall act as the Street Naming Committee for proposed streets. They shall maintain a list of approved, unused street names. As part of the subdivision approval process they shall also act on the proposed names, either from the Town maintained list or proposed by the applicant. Names shall be chosen to avoid sound-alike or similar street names.

- C. The Board of Selectman shall act as the Street Naming Committee for proposed name changes for existing streets. They shall adopt a procedure for implementing street name changes. A public hearing shall be held before any street name is changed. Names shall be chosen to avoid sound-alike or similar street names.
- D. The Town E-911 Committee, if any, the Police and Fire Chiefs shall advise the Planning Board and Board of Selectman as to the public safety issues raised by any proposed new or changed street name.

Section 2. Street numbers shall be provided for each dwelling, business, industry and other buildings in the Town of Walpole.

- A. The numbers shall be made of permanent, weatherproof materials, and shall be at least three (3) inches in height and shall be clearly visible from the street or roadway upon which the structure fronts;
- B. The numbers shall be placed on each structure or upon a suitable support near the main entrance to the structure so as to be visible from the street or roadway;
- C. The numbers shall be those assigned to each structure by the Engineering Department and filed in the office of the Town Clerk;
- D. This By-law shall be enforced by the Board of Selectmen through the office of the Building Inspector. Failure to comply with this By-law shall subject the property owner to a fine not to exceed \$50.00. Each day that such violation continues constitutes a separate offense.

## ARTICLE IX

### EXPLOSIVE & INFLAMMABLE MATERIALS

Section 1. The filing fee for licenses and certificates of registration as required by Section 13 of Chapter 148 of the General Laws of Massachusetts shall be as follows:

- |    |                                    |            |
|----|------------------------------------|------------|
| A. | Original License                   | \$1,000.00 |
| B. | Annual Certificate of Registration | \$ 100.00  |

Section 2.

- A.
  - 1. A Storage tank, for the purpose of this By-law is defined as a stationary containment structure, either above or below ground, for the purpose of holding flammable and/or toxic materials;
  - 2. Storage tanks requiring a license under Chapter 148 Section 13 M.G.L. shall be located in the Town of Walpole only with the approval of the Fire Chief, the Board of Health and the Board of Sewer and Water Commissioners.
  - 3. All other storage tanks shall require a permit from the Fire Chief.

B. Prior to construction or installation of any tank, requiring a license under Chapter 148 Section 13 M.G.L., application shall be made to the Fire Chief, who shall forthwith transmit a copy of same to the Board of Health and the Board of Sewer and Water Commissioners for their approval. The Fire Chief, the Board of Health and the Sewer and Water Commission shall take action within thirty (30) days of said filing, for storage tanks of up to ten thousand (10,000) gallons capacity. For each additional ten thousand (10,000) gallons or fraction thereof the above period shall be increased by seven (7) days.

C. The Fire Chief shall approve the application if it meets with the provisions of the Board of Fire Prevention Regulations (527 Code of Massachusetts Regulations(CMR) as well as National Fire Prevention Association standards 30 and 58 and the Uniform Fire Code, Volume 1.

D. The Board of Health shall approve if the application:

1. Meets with its regulations;
2. Will not result in a nuisance or be harmful to the inhabitants, injurious to their estates, dangerous to the public health, or attended by noisome or injurious odors;
3. Will not endanger any private water supply

E. The Board of Sewer and Water Commissioners shall approve if the application will not endanger any public water supply or the public sewer system.

F. The Fire Chief, The Board of Health, and The Board of Sewer and Water Commissioners shall not approve any storage tank for materials prohibited under the provisions of Section 10 of the Walpole Zoning By-Laws if the proposed storage tank will be located within the Water Resource Protection Overlay District as defined in Section 10 of the Walpole Zoning By-laws, unless the storage tank complies with the requirements of Section 10 of the Walpole Zoning By-laws.

G. Nothing in this section shall in any way limit the Fire Chief from enforcing the provisions of chapter 527 of the Code of Massachusetts Regulations (527 CMR)

Section 3. For the purpose of this regulation, the penalty for any violation shall be a fine of not more than two hundred dollars (\$200.00). Each day that such violation continues shall constitute a separate offense. The Fire Chief, the Health Agent, and the Agent of the Sewer and Water Commissioners shall each enforce this article.

Section 4. The fee for the installation of a tank requiring a permit from the Chief of the Fire Department shall be set by the Board of Selectmen.

## ARTICLE X

### HEALTH BY-LAWS

Section 1. The owner or occupant of any building upon land abutting on a public or private way in which there is a common sewer and is located in Area 1 of the Aquifer Overlay District, shall within one year; or is located in Area 2 of the Aquifer Overlay District, shall within two years; or if located in Area 3 of the Aquifer Overlay District , shall within three years; or if located in Area 4 of the Aquifer Overlay District, shall within four years, connect the same therewith by a

sufficient drain. A waiver from the requirement may be granted by the Board of Health on the following conditions:

A. That said land, by reason of its grade of level or any other cause cannot be drained into such sewer, until such incapacity is removed and, further, provided that a private septic system is installed which meets the requirements of the Board of Health, said waiver to be only for so long as said system continues to meet those requirements as they may be amended or revised, and;

B. The owner covenants and agrees to hook up to the sewer distribution system of the Town of Walpole immediately following at least one of the following events:

1. Failure of the present septic system determined in the sole discretion of the Board of Health.

2. Sale of the property, and

C. The owner covenants and agrees to sign a sewer hookup agreement with the Board of Health of the Town of Walpole through its agent and agrees to record this agreement at Norfolk County Registry of Deeds (Norfolk Registry of the Land Court).

D. Failure to comply with this By-law is a violation and the property owner shall be fined in the amount of \$50.00 for each violation. Each day on which any violation exists, shall be deemed to be a separate violation.

Section 2. No trade or employment which may result in a nuisance or be harmful to the inhabitants, injurious to their estates, dangerous to the public health, or may be attended by noisome and injurious odors shall be established in Walpole except in such a location as may be assigned by the Board of Health after a public hearing has been held thereon, subject to the provisions of Massachusetts General Laws, Chapter 40A and the Zoning By-laws of the Town of Walpole, and said Board may condition or prohibit the exercise thereof within the limits of the Town of Walpole, in any event. Such assignments shall be entered in the records of the Town of Walpole, and may be revoked when the Board shall think proper, all assignments of the Board shall be subject to provisions of Massachusetts General Laws, Chapter 111, Section 143.

### Section 3. Nuisance By-law

A. Authority and Purpose

In accordance with the general powers derived by Article 89 of the Amendments to the Massachusetts Constitution, this By-law is adopted for the removal and prevention of nuisances within the Town of Walpole.

B. Definitions

Nuisance - Any substantial interference with the common interest of the general public in the maintenance of safe and sanitary property and neighborhoods having a reasonable relation to the public health. Specific conditions which characterize a nuisance shall include, but not be limited

to, a gross accumulation of junk, debris or garbage over a prolonged or extended period of time; the creation and maintenance of unnatural areas conducive to the breeding of mosquitoes, inasmuch as such areas are not considered to be retention or detention basins designed to mitigate stormwater runoff or public ways; and the deliberate or unintentional creation and nuisance of areas conducive to the harborage and breeding of rodents and other feral animals.

**Interested Parties** - The owner, abutters, owners of land directly opposite on any public or private street or way, and abutters to the abutters within three hundred feet (300') of the owner's property line as they appear on the most recent Town tax list, notwithstanding that the land of any such abutter or owner is located in another city or Town.

**Owner** - The person with record title to the property upon which a nuisance is alleged or determined to be present, or an authorized agent or representative of such person.

**Petition** - A written document prepared by the Health Agent to the Board of Selectmen and Board of Health stating the address of the alleged nuisance, owner of the subject property, a brief description of the facts of the complaint, and a list of proposed remedial actions to alleviate said nuisance.

### C. Administration

1. **Remedial Order** - Upon written complaint or upon the Board of Health's own initiative, and within a reasonable amount of time, the Health Agent shall inspect and investigate any condition upon property within the Town of Walpole which may constitute a nuisance. If, in the opinion of the Health Agent, the condition does constitute a nuisance, the agent shall make a written report to the Board of Selectmen and the Board of Health of such condition, together with a petition for remedial action and shall file a copy of the petition for remedial action with the Town Clerk.

Upon receipt of such petition and report, the Board of Health shall set a date for a hearing before said Board, not more than 30 days after the date of filing of the petition with the Town Clerk. Notice of said hearing shall be posted, published and sent to interested parties not less than 14 days before the date of said hearing. Notice of the hearing shall state the subject matter sufficient for proper identification and the date, time and place of the hearing.

Within fifteen (15) days after the hearing, the Board of Health shall determine whether or not the condition constitutes a nuisance, and shall determine what action shall be taken by the owner to remedy the nuisance. The Board of Health shall issue a Remedial Order to the owner to abate such nuisance within 24 hours after service of such order, or within such other time as it considers reasonable.

2. **Penalties** - An owner shall forfeit twenty-five dollars (\$25.00) for every day during which he/she willfully violates such a Remedial Order, unless state law requires a different amount.

3. **Service of Remedial Order** - The Town Clerk shall deliver a copy of the Remedial Order to an officer qualified to serve civil process, who shall forthwith serve an attested copy thereof to the owner. Such a Remedial Order shall be in writing, and shall be served on the owner in the manner specified by M. G. L. Chapter 111, Section 124.

4. Appeal to Superior Court - A person aggrieved by such an order may appeal to Superior Court in accordance with applicable provisions, if any, of the Massachusetts General Laws.

D Reservation of Rights by Board of Selectmen and other Municipal Boards and Officials.

The provisions contained within this By-law are intended to complement the powers, duties and responsibilities of the Board of Selectmen as they relate to common nuisances caused by burnt, dilapidated or dangerous buildings or structures as provided in M.G.L. Chapter 139, Sections 1-3B; the powers, duties and responsibilities of the Board of Health as they relate to any nuisance, source of filth or cause of sickness under M.G.L. c. 111, Sections 123-125 or to dwellings unfit for human habitation under M.G.L. Chapter 111, Sections 127A-127C; the power, duties and responsibilities of the local inspector as they relate to dangerous structures under M.G.L. Chapter 143, Sections 6-11; and other municipal powers, duties and responsibilities as set forth in the Massachusetts General Laws, and said provisions shall not be construed to supersede or otherwise abrogate such powers, duties and responsibilities.

Section 4.

A. Pursuant to the authority of M.G. L. Chapter 40, Section 21D to which reference is made for any procedural matters not specified herein, any Enforcing Person as defined herein taking cognizance of a violation of a specific Town By-law or rule or regulation of the Board of Health which he or she is empowered to enforce may as an alternative to initiating criminal proceedings, give the offender a written notice to appear before the clerk of the district court having jurisdiction thereof at any time during office hours, not later than twenty-one (21) days after the date of such notice. Such notice shall be in triplicate and shall contain the name and address, if known, of the offender, the specific offense charged, and the time and place for his required appearance. Such notice shall be signed by the Enforcing Person and shall be signed by the offender whenever practicable in acknowledgment that such notice has been received.

B. The Enforcing Person shall, if possible, deliver to the offender a copy of said notice at the time and place of the violation. If it is not possible to so deliver a copy of said notice, said copy shall be mailed or delivered by the Enforcing Person, or by his or her commanding officer or the head of his or her department or by any person authorized by such commanding officer, department or head to the offender's last known address within fifteen (15) days after said violation. A certificate shall be made by the person so mailing such notice that it has been mailed in accordance with this By-law and M.G L. Chapter 40, Section 21D.

C. Any person notified to appear before the clerk of a district court as hereinbefore provided, may so appear and confess the offense charged, either personally or through a duly authorized agent or by mailing to such clerk with the notice such specific sum of money not exceeding three hundred dollars (\$300.00) as the Town shall fix as penalty for violation of the By-law, rule or regulation. Such payment shall, if mailed, be made only by postal note, money order or check. The payment to the clerk of such sum shall operate as a final disposition of the case.

D. If any person so notified to appear desires to contest the violation alleged in the notice to appear and also to avail himself of the procedure established pursuant to this section of M.G.L.,

Chapter 40, Section 21D, he may, within twenty-one (21) days after the date of the notice, request a hearing in writing. Such hearing shall be held before a district court judge, clerk or assistant clerk, as the court shall direct, and if the judge, clerk or assistant clerk shall, after hearing, find that the violation occurred and that it was committed by the person so notified to appear, the person so notified shall be permitted to dispose of the case by paying the specific sum of money fixed as a penalty as aforesaid or such lesser amount as the judge, clerk or assistant clerk, shall order, which payment shall operate as a final disposition of the case. If the judge, clerk or assistant clerk shall, after hearing find that the violation alleged did not occur or was not committed by the person notified to appear, that finding shall be entered in the docket, which shall operate as a final disposition of the case.

E. For purposes of the By-law, "Enforcing Person" shall mean, any police officer of the Town, the Health Agent or his or her designee.

Section 5. The use of fertilizer manufactured from or containing processed sludge derived from human waste products on any Town owned property shall be prohibited.

## ARTICLE XI ENFORCEMENT

Section 1. The penalty for any violation, of any By-Law shall be ten dollars (\$10.00), or such other amount as may be set in an individual Article or Section of these By-Laws, provided however that each day shall constitute a separate violation.

### Section 2. Non-Criminal Disposition

A. Pursuant to the authority of M.G. L. Chapter 40, Section 21D, to which reference is made for any procedural matters not specified herein, any Enforcing Person as defined herein taking cognizance of a violation of a specific Town By-law or rule or regulation which he or she is empowered to enforce may as an alternative to initiating criminal proceedings, give the offender a written notice to appear before the clerk of the district court having jurisdiction thereof at any time during office hours, not later than twenty-one (21) days after the date of such notice. Such notice shall be in triplicate and shall contain the name and address, if known, of the offender, the specific offense charged, and the time and place for his or her required appearance. Such notice shall be signed by the Enforcing Person and shall be signed by the offender whenever practicable in acknowledgment that such notice has been received.

B. The Enforcing Person shall, if possible, deliver to the offender a copy of said notice at the time and place of the violation. If it is not possible to so deliver a copy of said notice, said copy shall be mailed or delivered by the Enforcing Person, or by his or her commanding officer or the head of his or her department or by any person authorized by such commanding officer, or department head to the offender's last known address within fifteen (15) days after said violation. A certificate shall be made by the person so mailing such notice that it has been mailed in accordance with this By-law and M.G. L. Chapter 40, Section 21D.

C. Any person notified to appear before the clerk of a district court as hereinbefore provided, may so appear and confess the offense charged, either personally or through a duly authorized agent or by mailing to such clerk with the notice such specific sum of money, not exceeding three hundred dollars

(\$300.00), as the Town shall fix as penalty for violation of the By-law, rule or regulation. Such payment shall, if mailed, be made only by postal note, money order or check. The payment to the clerk of such sum shall operate as a final disposition of the case.

D. If any person so notified to appear desires to contest the violation alleged in the notice to appear and also to avail themselves of the procedure established pursuant to M.G.L., Chapter 40, Section 21D, he or she may, within twenty-one (21) days after the date of the notice, request a hearing in writing. Such hearing shall be held before a district court judge, clerk or assistant clerk, as the court shall direct, and if the judge, clerk or assistant clerk shall, after the hearing, find that the violation occurred and that it was committed by the person so notified to appear, the person so notified shall be permitted to dispose of the case by paying the specific sum of money fixed as a penalty as aforesaid or such lesser amount as the judge, clerk or assistant clerk, shall order, which payment shall operate as a final disposition of the case. If the judge, clerk or assistant clerk shall, after the hearing find that the violation alleged did not occur or was not committed by the person notified to appear, that finding shall be entered in the docket, which shall operate as a final disposition of the case.

E. For purposes of the By-law, "Enforcing Person" shall mean, any police officer of the Town, any person so designated for a specific article or section of these By-Laws, any person so designated in a rule or regulation.

### Section 3. Schedule of Covered Fines

By-Law	Fine	Enforcing Person(s)
Art VIII, Sec 2 – Street Numbers	\$50.00	Building Inspector
Art IX, Sec 2 – Storage Tanks	\$200.00	Fire Chief, Health Agent S&W Commission Agent
Art X, Sec 1 – Nuisance By-Law	\$50.00	Health Agent
Art XIII – All sections Except for the following:		
Art XIII, Sec 3 – Open Bottle	\$50.00	Police Officers
Art XIII, Sec 17 – Soliciting	\$300.00	Police Officers
Art XIII, Sec 20 – Off Road Vehicle	\$500.00	Police Officers
Art XIII, Sec 24 – Handicapped Parking	\$25.00	Police Officers
Art XIII, Sec 24 – Temporary Placard	\$50.00	Police Officers
Art XIII, Sec 25 – "Stink Bombs"	\$300.00	Police Officers
Art XIII, Sec 27 – Anti-Noise	\$100.00	Police Officers
Art XV, Sec 2-A – Fire Alarms	\$50.00	Fire Chief and Captains
Art XV, Sec 2-B – Fire Alarms	\$100.00	Fire Chief and Captains
Art XV, Sec 2-C – False Alarms	\$200.00	Fire Chief and Captains
Art XV, Sec 3 – Key Access	\$50.00	Fire Chief and Captains
Art XVII, Sec 12 – Animal Fines	See Section	Animal Control Officer Deputy Animal Control Off. Police Officers
Art XXIV – Wetlands	\$300.00	Conservation Commission Conservation Agent
Art XXVI – Scenic Roads	\$300.00	Tree Warden Police Officers



## ARTICLE XII - PERSONNEL WAGE AND SALARY BY-LAWS - A Separate Publication

### ARTICLE XIII - POLICE REGULATIONS

Section 1. No person shall, by any means or in any manner, willfully frighten any horse or play at any game which a ball or any other object is used, fly any kites, or throw stones, missiles or other objects in any street, public way or sidewalk. Nor shall any person throw, drop or allow or cause to fall any stone, missile or other object from any bridge, upon a street, public way or sidewalk; or shoot with bows and arrows upon, or cause or allow an arrow to fall within a street, public way or sidewalk.

Section 2. No person shall skate or coast upon any sled upon any sidewalk or upon any street or public place except at such times and upon such streets or places as the Selectmen and the Chief of Police may, by public notice, designate for such purpose.

Section 3. No person shall drink or open any container with the intent of consumption any alcoholic beverages as defined in Chapter 138, Section 1 of the General Laws, as amended, while in, on or upon any public way or any way to which the public has access; and no person shall drink or open container with the intent of consumption any alcoholic beverages as aforesaid, in, on or upon private land or place, without the consent of the owner or control of such public or private land or place. Anyone violating this section may be arrested by a police officer without a warrant. All alcoholic beverages being used in violation of this section may be seized and held until final adjudication of the charge against any such persons has been made by the court. A violation of this section may be punished by a fine not to exceed \$50.00.

Section 4. No person shall discharge any gun, fowling piece, pistol, or firearm or release an arrow from a bow or hunt or trap or set fire to any material known as fireworks, or other combustible matter, in any of the public ways, streets or places of the Town, including but not limited to conservation land and other Town owned property, or within one half of a mile of the South Walpole Common, the Walpole Town Hall or the East Walpole Square, or within one half of a mile of any of the wells or water tanks or other structures operated for the purpose of supplying and storing drinking water for the people of the Town; or within one half of a mile of any one of the public schools of the Town; except on such occasions and of such character and mind as the Chief of Police may, with the approval of the Board of Selectmen, by public notice, permit, provided; however, this section shall not apply to any person abating a nuisance or in the exercise of duty required by law.

A. No person shall, except with the written consent of the landowner or his authorized agent and where not otherwise prohibited by law, fire or discharge any firearm of any caliber or gauge, or a CO2 or an air rifle, or release an arrow from a bow on any private property or hunt or trap in the Town; provided, however, that the provisions of this By-law shall not apply to Police Officers in the performance of their duties, nor to the use of such weapons at any military exercise or at an established shooting range, or sportsmen's club, or in the lawful defense of the person, family or property of any citizen, or except as otherwise authorized or required by law.

B. No person while hunting or trapping on private property in the Town shall release an arrow from a bow within 150 feet of any road or within 500 feet of any dwelling in use, nor violate any other applicable state hunting or trapping law. No person shall hunt or trap on private property except when in possession of the carrying for inspection all licenses, permits, and stamps required for hunting or trapping under state law as well as written permission from the landowner or his authorized agent to hunt or trap on the property in question.

Section 5. No person shall remove or displace any safety barrier or light which has been temporarily or otherwise erected at any construction site within any public way, street, or sidewalk or place for the safety of pedestrian and motor vehicle travel; unless such person is in exercise of duty justified by law. Nor shall any unauthorized person erect any barrier at a site not under construction or otherwise, with the intent to impede or prevent free passage by vehicles or pedestrians, within any public way, place, street or sidewalk.

Section 6. No person shall behave in a rude, indecent or disorderly manner, or use any indecent, profane or insulting language in any public place or in any public way, street or sidewalk, or in any private way to which the public has the right of access as invites, in the Town or near any dwelling house other building or business therein, or upon any doorstep, portico or other projection from any house or other building or business, to the annoyance or disturbance of any person lawfully present.

Section 7. No person shall throw or drop in or upon any public footpath, sidewalk, way, street or place, or private way to which the public has a right of access as invitees, any piece of wire, metal, mineral, glass or other material, including the discharge of water, ice or snow that might or would be a source of nuisance, as defined in the Town's Nuisance By-law, Article X Health By-laws or danger to anyone lawfully passing over or using the same; or that may prove injurious in any respect to the hooves of animals, the tire of bicycles or the rubber tires of automobiles and other vehicles or the feet of people.

Section 8. No person shall deposit papers or other matter on the streets or sidewalks of the Town, or shall team manure, hay, rubbish, garbage, ashes, liquid or other materials in such a manner as to litter, pollute, or injure the streets and sidewalks of the Town; nor shall any person throw or deposit in any street or sidewalk dirt, rubbish, garbage or other refuse of any kind except in a manner provided by the Board of Health, or by State or Federal Regulation.

A. No person shall deposit snow onto a sidewalk that has been plowed or deposit leaves from private property onto streets or sidewalks of the Town.

Section 9. No person shall linger, continue to sit, stand or occupy any part of the public street, public place, public building or any property not his own or under his control, so as to obstruct or impede the free passage or in any manner annoy, or disturb any other person, after being instructed or directed by a police officer to move on.

Section 10. No person shall commit any willful, malicious or wanton injury or damage to any property owned by the Town of Walpole, including all school buildings and the contents therein; all trees, bushes, shrubs and other greenery upon or within the public lands of the Town; or buildings and all structures and containers authorized to be upon those grounds; and all walls, fences and other barriers owned by the Town and constructed for the purpose of protecting or

enclosing or improving land, shrubbery or structures. No person shall injure, mark with any substance or in any other way disturb the normal condition of any gravestone, marker, monument, other structure of decoration within any cemetery or burial place, or other public place.

Section 11. No person shall make any figure or write any words upon any fence, building or any other structure in any public place or commit a nuisance upon any sidewalk or against any tree or structure adjoining the same.

Section 12. No unauthorized person shall remain upon the grounds of any public building or within a public building within the town, between dusk and dawn unless they are using the facilities during an authorized public building event. Any person found to be committing a trespass hereunder pursuant to M.G. L. chapter 266, Section 120 and who refuses to move from the grounds of a public building or from within a public building when requested by a police officer may be detained without a warrant by a police officer as prescribed under M.G.L. Chapter 266 Section 120.

Section 13. No person shall cart or convey garbage, manure, rubbish or filth of any kind nor any noxious or refuse liquid, gaseous or solid matter or substances in any public street or place, except in such manner as provided by the Board of Health or by State or Federal Regulation.

Section 14. No person shall, without authority from the Chief of the Fire Department, open, pull or otherwise cause to sound an alarm, or interfere with a signal box, wire or anything connected with the fire alarm apparatus except in cases of fire or related emergency.

Section 15. No person shall, without proper authority or permission from the Board of Sewer & Water Commissioners or their Gent, intermeddle with or willfully break or injure any water line, Town drain, sanitary sewer or appurtenances.

A. No person shall deposit any foreign solid or liquid material so as to endanger any Town drains, sanitary sewers or water supply.

Section 16. No person shall, without proper authority, intermeddle with or willfully break any arc lamp, globe or incandescent lamp, or any insulators, or attachments used to carry wires within the limits of any public way or place in the Town.

## Section 17: Licensing of Solicitors and Canvassers

### A Purpose:

This section, adopted pursuant to M.G.L. c. 43B, section 13 and Article 89 of the Amendments to the Constitution of the Commonwealth of Massachusetts, establishes registration requirements and specific operation requirements for persons intending to engage in door-to-door canvassing or solicitation in the Town of Walpole in order to (1) protect its citizenry from disruption of the peaceful enjoyment of the residences and from the perpetration of fraud or other crimes; and (2) to allow for reasonable access to residents in their homes by persons or organizations who wish to communicate either commercial or non-commercial messages.

B. Definitions:

1. "Soliciting" shall mean and include any one or more of the following door-to-door activities:
  - a. selling or seeking to obtain orders from the purchase of goods or services for any kind of consideration whatever;
  - b. selling or seeking to obtain prospective customers for application of purchase of insurance of any kind;
  - c. seeking to obtain subscriptions to books, magazines, periodicals, newspapers, or any other type of publication;
  - d. seeking to obtain gifts or contributions money, clothing, or any other valuable thing for the support or benefits of any association, organization, corporation or project;
  - e. seeking to obtain information on the background, occupation, economic status political affiliation, attitudes, viewpoints, or the like of the occupants of a residence for the purpose of selling or using such data, wholly or in part for commercial purposes.
2. "Canvassing" shall mean and include any one or more of the following door-to-door activities:
  - a. person-to-person distribution of literatures, periodicals, or other printed materials, but shall not include placing or dropping off printed materials on the premises;
  - b. seeking to enlist membership in any organization;
  - c. seeking to present, in person, organizational information.
3. "Residence" shall mean and include every individual dwelling unit occupied for residential purposes by one or more persons.
4. "Registered solicitor" shall mean any person who has obtained a valid certificate of registration from the Town as required by this By-law.

C. Registration:

Every person or organization intending to engage in commercial soliciting or canvassing door-to-door in the Town of Walpole must register with the Police Department at least three (3) days in advance by filing a registration application form with the Chief of Police.

1. Organization application forms shall include the following information:

- a. The name and address of the organization applying for registration, and the names and addresses of the organizations' principal officers.
  - b. The name, title and telephone number, IRS or Social Security number of the persons filing the application form.
  - c. The names and addresses of the person(s), if any, who will be directly supervising the solicitation or canvassing operation in the Town of Walpole.
  - d. A list of the names, addresses, dates of birth of all individuals who will all be employed in solicitation or canvassing by the applicant.
  - e. Period of time for which certificate of registration is needed (note: no certificate may be granted for longer than a 90 day period).
  - f. Names of the last three communities (if any) in which the organization has conducted a solicitation or canvassing operation.
2. Individual registration forms shall be required for all individuals, including those who are affiliated with an organization registered under 17C (a). Individual registration forms shall contain the following information:
  - a. Name and address of the present place of residence and length of residence at that address; if less than three years residence at a present address, the address of residence(s) during the past three years.
  - b. Date of birth.
  - c. Name and address and telephone number of the person or organization whom the applicant represents and the length of time the applicant has been associated with or employed by that person or organization.
  - d. Name and address of employer during the past three years if other than listed in 17C.
  - e. Period of time for which certificate of registration is needed (note: no certificate may be granted for longer than a 90 day period).
  - f. Name of the last three communities (if any) in which the applicant has solicited or canvasses door-to-door.
  - g. Social Security Number. (Option)
  - h. Recent passport-sized photograph of the applicant to be affixed to registration card.
  - i. Make, model and registration number of any vehicle to be used by the

applicant while soliciting or canvassing.

D. Registration Fee.

Each applicant for registration or re-registration shall pay a fee of \$5.00 to the Town.

E. Registration Cards:

1. The Police Chief, after a review shall furnish each person engaged in solicitation or canvassing with a registration card which shall contain the following information:
  - a. The name of the person.
  - b. A recent photograph of the person.
  - c. The name of the organization (if any) which the person represents.
  - d. A statement that the individual has been registered with the Town of Walpole Police Department but that registration is not an endorsement of any individual or organization.
  - e. Specific dates or period of time covered by the registration.
2. Persons engaged in solicitation or canvassing must carry the registration card at all times and present the card to any person solicited or upon the request of any police officer.
3. Registration cards are valid only for the specific dates or time period specified thereon and in no case for longer than 90 days.
4. The Police Chief shall refuse to register an organization or individual whose registration has been revoked for violation of this By-law within the previous two year period, or who has been convicted of murder, manslaughter, rape, robbery, arson, burglary/breaking and entering, assault, larceny.

F. Exceptions:

1. Registration shall not be required for officers or employees of the Town, County, State or Federal governments when on official business.
2. Individual registration shall not be required for minors under the age of 18 except in connection with canvassing or soliciting on behalf of a profit organization, newspaper carriers excepted.
3. Registration shall not be required for individuals seeking to engage in exclusively non-commercial communication.

G. Duties of Solicitors:

1. It shall be the duty of every solicitor or canvasser, upon going into any residential premises in the Town of Walpole, to first examine any notice which may be posted prohibiting solicitation. If such a notice is posted, the soliciting or canvasser shall immediately and peacefully depart from the premises.
2. Any solicitor or canvasser who has gained entrance to any residence, whether invited or not, shall immediately and peacefully depart from the premises when requested to do so by the occupant.
3. Immediately upon gaining entrance to any residence, each registered solicitor or canvasser must do the following:
  - a. Present his registration card for inspection by the occupant.
  - b. Request that the occupant read the registration card.
  - c. Inform the occupant in clear language of the nature and purpose of his business and, if he is representing an organization, the name and nature of that organization.
4. It shall be the duty of every organization employing solicitors or canvassers to notify the Police Department daily as to what area(s) of the Town they will be operating in.

H. Restrictions on Methods of Solicitation:

It shall be unlawful for a solicitor or canvasser to do any of the following:

1. Falsely represent, directly or by implication, that the solicitation or canvassing is being done on behalf of a governmental organization.
2. Solicit or canvass at any residence where there is a posted sign prohibiting solicitation, without express prior permission of an occupant.
3. Solicit or canvass at any residence without express prior permission of an occupant, before 9:00 a.m. or after 8:00 p.m. where there is no sign posted otherwise limiting solicitation or the hours of solicitation.

I. Penalty:

1. Any person or organization who, after being advised and given a copy of this By-law, violated any of the provisions of this By-law shall be subject to a fine not to exceed \$300.00 for each offense.
2. Any person or organization who for himself, itself, or through its agents, servants or employees violated any provision of sub-sections 17G or 17H of this By-law, or who knowingly provides false information on the registration application, or who is found, after investigation by a police officer, to have conducted himself or itself in a threatening, abusive, or illegal fashion, shall have his, her, or its registration revoked by the Chief of Police by written notice delivered to the holder of the registration in person, or sent to the holder by certified mail at the address set forth in the application.

J. Appeals:

Any person or organization who is denied registration or whose registration has been revoked may appeal by filing a written notice of appeal with the Board of Selectmen. Such appeal must be filed within 5 days after receipt of the notice of denial or revocation. The Board of Selectmen shall hear the appeal at its next scheduled meeting after the filing of the written notice of appeal, provided, however, that if the Board of Selectmen fails to make determination within 30 days after the filing of the appeal, the registration shall be deemed granted or reinstated as the case may be.

K. Severability:

Invalidity of any individual provision of this section shall not affect the validity of the By-law as a whole. (Petition of the Board of Selectmen)

Section 18. No person, other than a duly authorized officer or employee of the Town of Walpole shall dig a trench or lay a pipe in or in any way disturb the earth or materials on, in, or under any street or public way without a permit in writing given by the Town Administrator upon application by said person made to the Town Administrator and whenever such permit is so issued shall, whenever a pipe, drain or any other structure is placed in, along or under such street or public way, file with said Town Administrator a plan of the same showing location and elevation of such pipe, drain or other structure, said plan to be of such size and standard as said Town Administrator may require.

Section 19. No person shall amplify voice, music or sound whether live or recorded at a level which can be heard at a distance of greater than 100 yards from its source except by written permission of the Board of Selectmen.

Section 20.

A. All motorized off-road vehicles including, but not limited to snowmobiles, minibikes and trail bikes, shall be registered with the Walpole Police Department for a fee of twenty dollars (\$20.00). All vehicles must display a means of identification as prescribed by the Walpole Police Department.

B. No unauthorized person shall ride or operate said motor vehicle over privately owned or Town-owned land without the written permission of the landowner or appropriate Town authority.

C. Penalty for operating without registration and written permission shall be confiscation of vehicle for one month or a fine of \$500.00. Vehicle shall be impounded until payment of fine.

Section 21. No resident, tenant, property owner, or registered vehicle owner, shall have, or store, or permit to be stored more than one unregistered vehicle, truck, or parts thereof, ungaraged, on any lot, residence, or premises within a residential district at any time. No unregistered vehicle, truck, or parts thereof, shall be kept, or stored in the front yard or the front side yard of any residence.



Section 22. For the purpose of this article, the penalty for violation of any provision of any section shall be a fine of not more than two hundred dollars (\$200.00) for each day said violation exists, unless otherwise specified in the General Laws of the Commonwealth.

### Section 23. Requirement for Handicapped Parking Spaces

A. No person shall park a motor vehicle, motorcycle or like means of transportation in a designated parking space that is reserved for vehicles owned and operated by disabled veterans or by handicapped persons unless said vehicle bears the distinctive number plates authorized by Section Two of Chapter 90 of the General Laws. Any person or body that has lawful control of a public or private way or improved or enclosed property used as off-street parking areas for businesses, shopping malls, theaters, auditoriums, sporting or recreational facilities, cultural centers, residential dwelling or for any other place where the parking spaces in said off street parking areas for any vehicle owned or operated by a disabled veteran or handicapped person whose vehicle bears the distinguishing license plate authorized by Section Two of Chapter 90 of the General Laws. Any person or body that has lawful control of a public or private way of improved or enclosed property used as off-street parking areas for businesses, shopping malls, theaters, auditoriums, recreational facilities, cultural centers, residential dwelling, or for any other place where public has right of access as invitees or licensees shall be required to reserve parking spaces in said off-street parking areas for businesses, shopping malls, theaters, auditoriums, sporting or recreational facilities, cultural centers, residential dwelling, or for any other place where the public has right of access as invitees or licensees shall be required to reserve parking spaces in said off-street parking areas for any vehicle owned or operated by a disabled veteran or handicapped person whose vehicle bears the distinguishing license plate authorized by Section Two of Chapter 90 according to the following formula:

If the number of parking spaces in any such area is more than fifteen but not more than twenty-five, one parking space; more than twenty-five but not more than forty, two (2) parking spaces; more than forty but not more than one hundred, four percent of such spaces, but no less than three; more than one hundred but not more than two hundred, three percent of such spaces but not less than four; more than two hundred but not more than five hundred two percent of such spaces but not less than six; more than five hundred but not more than one thousand, one and one-half percent of such spaces, but not less than ten; more than one thousand but not more than two thousand, one percent of such spaces but not less than fifteen; more than two thousand but less than five thousand three fourths of one percent of such spaces but not less than twenty; and more than five thousand, one half of one percent of such spaces but not less than thirty.

B. Sign Requirements for Handicapped Parking Spaces - Parking Spaces designated as reserved under the provision of Section (a) of this article, shall be identified by use of above grade signs with white lettering against a background and shall bear the words, "Handicapped Parking: Special Plate Required - Unauthorized Vehicles may be removed at Owner's Expense", shall be as near as possible to a building entrance or walkway, shall be adjacent to curb ramps or other unobstructed methods permitting a sidewalk access to a handicapped person; and shall be twelve feet wide or two eight foot wide areas with four feet of cross hatch between them.

C. Regulation of Unauthorized Vehicles in Handicapped Spaces - Unauthorized vehicles shall be prohibited within parking designated for use by disabled veterans or handicapped

persons as unauthorized by Section (a) of these By-laws or in such a manner as to obstruct a curb ramp designated for use by handicapped persons as a means of egress to a street or public way.

D. Penalty. The penalty for violation of this By-law is twenty-five dollars.

E. The Chief of Police, his designee, or the Town Clerk may issue a Temporary Handicapped Parking Permit to any person upon application with supporting medical affidavit signed by a licensed physician designating the applicant as physically handicapped.

Said temporary permit shall be issued with an expiration date not to exceed sixty (60) days from the date of issue and shall be displayed in the front right windshield of any vehicle parked in a designated handicapped parking space.

If medically necessary, the permit may be extended.

The authorized use a Temporary Permit shall be punishable by a fine of \$50.00 and that the Town vote to accept Massachusetts General Laws, Chapter 147, Section 10F, Parking Control Officers.

Section 25. No hawker or peddler, merchant or other persons shall sell or barter or carry or offer for sale or barter any good, the sole purpose or function of which is to create offensive odor by means of emanations of gas or vapor into the atmosphere, including but not limited to object known as "stink bombs". This By-law shall not be construed to prohibit the use of tear gas by law enforcement officials or by others lawfully empowered to such use. Persons convicted of violating this By-law shall be punished by a fine not to exceed \$300.

Section 26. False Alarms.

#### Section 1. Definitions

- A) For the purpose of this By-law the following terms, phrases, words and derivations shall have the meanings given herein. When not inconsistent with the context, words used in the present tense include the future; words used in the plural number include the singular number; and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.
  - 1) The term "Alarm System" means an assembly of equipment and devices or a single device such as solid state unit which plugs directly into A 110 volt AC line, arranged to signal the presence of a hazard requiring urgent attention or an incident to which Police customarily or reasonably are expected to respond. Fire Alarm Systems and alarm systems which monitor temperature, smoke, humidity or any other condition not directly related to the detection of an unauthorized intrusion into a premises or an attempted robbery at a premises are specifically excluded from the provisions of this By-law.

The provisions of Section 3 of this By-law shall not be applicable to municipal, county and state agencies.

2) False Alarm means:

- a. The activation of an alarm system through mechanical failure, malfunction, improper installation or negligence of the user of an alarm system or of his employees or agents.
- b. Any signal or oral communication transmitted to the Police Department requesting or requiring, or resulting in a response on the part of the Police Department when in fact there has been no unauthorized intrusion, robbery, or burglary, or attempt thereat. For purposes of this definition, activation of alarm systems by acts of God, including, but not limited to, power outages, hurricanes, tornadoes, earthquakes and similar weather or atmospheric disturbances shall not be deemed to be a false alarm.

Section 2. Control and Curtailment of Signals Emitted by Alarm Systems

A. Every alarm system user shall submit to the Chief of Police the names and telephone numbers of at least two persons who are authorized to respond to an emergency transmitted by the alarm system, and who can open the premises wherein the alarm system is installed.

B. All audible alarm systems installed after the effective date of this By-law which use an audible horn or bell shall be equipped with a device that will shut off such horn or bell within ten (10) minutes of the activation of the alarm system.

C. Any alarm system emitting a continuous and uninterrupted signal for more than fifteen (15) minutes which cannot be shut off or otherwise curtailed due to the absence or unavailability of the alarm user or those persons designated under paragraph (a) of this section and which disturbs the peace, comfort, or repose of a community, a neighborhood, or a number of the inhabitants of the area where the alarm system is located, shall constitute a public nuisance.

Upon receiving complaint of such a continuous and uninterrupted signal, the Chief of Police shall endeavor to contact the alarm user, or members of the alarm user's family, or those persons, designated by the alarm user under paragraph (A), in an effort to abate the nuisance. If such efforts do not result in the silencing of the alarm within thirty (30) minutes of its activation, the Police Chief may, at the expense of the owner, order its deactivation using whatever means may be appropriate to the occasion.

The Police Chief shall cause to be recorded the names and addresses of all complaints, and the time of each complaint.

Section 3. Penalties

Upon receipt of three or more false alarms within a calendar year

A. The police Chief may order the user

1. to discontinue the use of the alarm,
2. may disconnect any direct connections to the Police Department,
3. may order that further, connections to the communications console in the Police Department will be contingent upon the user equipping any alarm system with a device that will shut off any audible horn or bell within ten (10) minutes after activation of the alarm system.

B. The user shall be assessed \$25.00 as a false alarm service fee for each false alarm in excess of three occurring within a calendar year. All fees assessed hereunder shall be paid to the Finance Director for deposit to the General Fund.

#### Section 27 Anti-noise By-law

A. It shall be unlawful for any person or persons to engage in commercial, industrial or manufacturing operations, including construction for hire, excavation, pile driving or trash or rubbish collection, between the hours of 8PM and 7AM if the effect of such activities is to create loud or annoying sounds, as defined herein, in any residential area of the Town of Walpole unless such activities are necessitated by exigent emergency circumstances impacting upon life, safety or protection of property. For purposes of this By-law, noise which is plainly audible at a distance of one hundred and fifty feet from such activities shall constitute prima facie evidence of loud or annoying sounds in violation of this By-law.

B. Any person violating the provisions of this by-law shall be punished by a fine not to exceed one hundred (\$100.00) dollars for each offence.

### ARTICLE XIV

#### TRAFFIC REGULATIONS

Section 1. A code of traffic rules and regulations as drawn up by the Board of Selectmen, approved by the State Department of Public Works on July 12, 1945 and amended by the Board of Selectmen from time to time, as provided in Chapter 40, Section 22 of the General Laws of the Commonwealth delineates the traffic regulations of the Town of Walpole.

### ARTICLE XV

#### FIRE DEPARTMENT REGULATIONS

Section 1. The Chief of the Fire Department shall be vested with the authority to inspect all buildings and premises for the purpose of eliminating fire or explosion hazards. Upon receipt of a written complaint from any person whose property or interest may be jeopardized by an

existing fire or explosion hazard, the Chief of the Fire Department shall conduct an immediate investigation of the conditions that initiated the complaint. If any building or premises contain a condition that in the judgment of the Chief of the Fire Department can be classed as fire or explosion hazards, he shall forthwith issue a written order for the elimination of such fire and explosion hazards as may exist.

## Section 2.

A. All special fire alarm signal services which provide direct contact, including telephone Walpole Fire Department shall be regulated by permit under the direction of the Board of Selectmen. Users of special fire alarm signal services without such permit may be subject to a fine of \$50.00.

B. Users of such special fire alarm signal services shall provide access to the Walpole Fire Department only via connections to telephone lines approved by the Board of Selectmen. In no case shall direct access be provided via the Fire Department emergency telephone number. Penalty for connection to the Fire Department Emergency Line may be \$100.00.

C. False alarms within a twelve month period resulting in mechanical failure, malfunction, improper installation or negligence of the user of a fire alarm system may result in the following fines:

First Offense:	No Charge
Second Offense:	\$100.00
Third Offense:	\$200.00
Fourth Offense:	Removal of the System

Section 3. Fire Alarm and Fire Protection Systems - Secured Key Access - Any building other than a residential building or less than six (6) units which has a fire alarm system or other fire protection system shall provide a secure key box installed in a location accessible to the Fire Department in case of emergency. This key box shall contain keys to fire alarm control panels and other keys necessary operate or service fire protection systems. The key box shall contain keys to fire alarm control panels and other keys necessary to operate or service fire protection systems. The key box shall be a type approved by the Chief of the Walpole Fire Department and shall be located and installed as approved by the Chief.

Any building owner violating this By-law after receiving due notice by the Fire Department shall be subject to a fine of fifty dollars (\$50.00).

## Section 4. Fire Lanes - Leaving of Vehicles in Certain Private Ways

A. FIRE REGULATIONS - It shall be unlawful to obstruct or block a private way with a vehicle or any other means so as to prevent access by fire apparatus or equipment to any multiple family building, stores, shopping centers, schools and places of public assembly.

B. FIRE LANES - It shall be unlawful to obstruct or park a vehicle in any Fire Lane, such Fire Lanes to be designated to be a distance of twelve (12) feet from the curbing of a sidewalk in a shopping center, apartment complexes and similar locations. Where no sidewalk with curbing exists, the distance and location shall be established by the Head of the Fire Department.

C. Any object or vehicle obstructing or blocking any Fire Lane may be removed or towed by the Town under the direction of a Police Officer at the expense of the owner and without liability to the Town of Walpole.

D. The owner or record of any building affected by these sections shall provide and install signs and road markings as provided in Paragraph (b) of this section. Said signs shall be no less than 12" x 18" and shall read, "Fire Lane - No Parking - Tow Zone."

E. The leaving of vehicles unattended is prohibited within the limits of private ways under the jurisdiction of the Walpole Housing Authority which furnish means of access for fire apparatus to any building.

## ARTICLE XVI

### JUNK DEALERS AND COLLECTORS

Section 1. The Board of Selectmen may, pursuant to the General Laws of the Commonwealth and the local Zoning By-laws, license suitable persons to be dealers in and keepers of shops for the purchase, sale and barter of junk, old metals, second-hand articles, precious metals and precious stones in the Town. They may license suitable persons as junk collectors to collect, by purchase or otherwise, junk, old metals, second-hand articles, precious metals and precious stones from place to place in the Town; and they may provide that such collectors shall display badges on their persons or their vehicles or upon both, when engaging in collecting, transporting or dealing in junk, old metals or second-hand articles, precious metals and precious stones, and may describe the design thereof. They may also provide that such shops and all articles of merchandise thereof and any place, vehicle or receptacle used for the collection or keeping of the articles aforesaid, may be examined at all times by the Chief of Police or by any police officer by his authorized thereto or the Building Inspector.

Section 2. Every keeper of a shop for the purchase, sale or barter of junk, old metal or second-hand articles, precious metals and precious stones, within the limits of the Town shall keep a book in which shall be written at the time of every purchase or any such article, a description thereof, the name, age and residence of the person from whom, and the day and hour when such purchase was made; such book shall at all times be open to the inspection of the Board of Selectmen or any other person by them authorized to make such inspection, and every keeper of such shop shall put in a suitable and conspicuous place on his shop, a sign having his name and occupation legibly inscribed thereon in large letters and such shop and all articles of merchandise therein may be at all times examined by the Chief of Police or by any police officer by him authorized or by the Building Inspector to make such inspection; and no keeper of such shop and no junk collector shall, directly or indirectly either purchase or receive by way of barter or exchange, any of the articles aforesaid of a minor or apprentice knowing or having reason to

believe him to be such; and no articles purchased or received by such shopkeeper shall be sold until at least fourteen (14) days from the date of its purchase or receipt has elapsed. Such shop shall be closed between the hours of 9:00 p.m. and 7:00 a.m. and no keeper thereof and no junk collector shall purchase any of the articles aforesaid during such hours.

## ARTICLE XVII

### ANIMAL REGULATIONS

Section 1. License Fees, Examination of Seeing Eye Dogs; Refund of Fees; Inspection of Kennels - The annual fee for every dog license, except as otherwise provided by law, shall be twenty dollars (\$20.00) for a dog unless a certificate of a registered veterinarian who performed the operation that such dog has been spayed/neutered and has thereby been deprived of the power of propagation, has been shown to the Town Clerk in which case the fee shall be fifteen dollars (\$15.00). A certified copy of such certification on file in the office of any city or Town clerk within the Commonwealth may be accepted as evidence that such operation has been performed. If the Town Clerk is satisfied that the certification by the veterinarian who spayed/neutered the dog cannot be obtained, he may accept in lieu thereof, a statement under the penalties of perjury by a veterinarian registered and practicing in the Commonwealth, describing the dog and stating that he has examined such dog and in his opinion, the dog is not capable of propagation by reason of spaying/neutering. Until the veterinarian has examined the dog in question, license fee for that licensing period shall be at the fifteen dollar rate. When applying for a license, the applicant must also show proof by a veterinarian certificate, that the dog has been vaccinated against rabies within the last two years if the dog is six months of age or over as required by Massachusetts Laws, (General Laws, Chapter 140, Section 115B). No fee shall be charged for a license for a dog specifically trained to lead or serve a blind person; providing that the Division of the Blind certifies that such dog is so trained and actually in the services of a blind person. No license fee or part hereof shall be refunded because of subsequent death, loss, spaying/neutering or removal from the Commonwealth or other disposal of the dog. The fee for each license for a kennel shall be fifty dollars \$50.00 if no more than four dogs are kept in said kennel, one hundred dollars \$100.00 if more than four, but not more than ten dogs are kept therein, and two hundred dollars \$200.00 if more than ten dogs are kept therein, provided for the purpose of determining the amount of such fee for any kennel, dogs under the age of six months, shall not be counted in the number of the dogs kept therein. The Animal Control Officer shall inspect all kennels licensed under the provisions of Section of Chapter 140 in accordance with the provisions of Section 137C of Chapter 140 at least once every six months. "License period" shall be the time between January first and the following December first, both dates inclusive. A dog or cat's vaccination tag shall be secured by the owner or keeper of such dog or cat to a collar or harness made of suitable material to be worn by the dog or cat at all times.

Section 2. Disturbing the Peace - No person shall own or keep in the Town any dog which the biting, excessive barking, howling or in any other manner disturbs the quiet of the public.

Section 3. Complaint of Nuisance - If any person shall make a complaint first in writing to the Animal Control Officer that any dog owned or harbored within his jurisdiction is a nuisance by reason of vicious disposition or excessive barking or of other disturbance, the Animal Control Officer shall investigate such complaint which may include an examination under oath of the complainant, submit a written report to the Selectmen of his findings and

recommendations, together with the written complaint. Upon receipt of such report and examination of the complaint and the owner of the dog, under oath, the Selectmen after hearing of which time the owner of the dog will be given due notice to appear, may make such order concerning the restraint, muzzling, disposal of such dog, dismissal of the complaint or such other action as may be deemed necessary. The Animal Control Officer, after investigation, may issue an interim order that such dog be restrained or muzzled for a period not to exceed fourteen days to enable the Selectmen to issue their order following the receipt of the report of the Animal Control Officer. If the Selectmen fail to act during the period or interim order, upon expiration of the period the interim order is automatically vacated.

Section 4. Restraint or Muzzling - The Animal Control Officer may restrain or muzzle or issue an interim order to restrain or muzzle, for a period not to exceed fourteen days, any dog for any of the following reasons:

- A. for having bitten or threatened (worried) any person,
- B. if found at large or unmuzzled, as the case may be, while an order for the restraint of such dog is in effect,
- C. if found in a school, schoolyard or other recreational area,
- D. for having killed or maimed or otherwise damaged any domesticated animal,
- E. for chasing any vehicle, (including bicycles), upon any public way or way open to the public travel in the Town,
- F. for any violation of Section 2,
- G. all of the above subject to penalties or fines.

Upon restraining or muzzling or issuing an interim order to restrain or muzzle, the Animal Control Officer shall submit in writing to the Selectmen, a report of his action and the reasons therefore. Upon receipt of such report, the Selectmen may make such order concerning the restraint, muzzling or disposal of such dog as may be deemed necessary. If the Selectmen fail to act upon the report during the period the dog is restrained or muzzled, upon expiration of the period, the interim order automatically is vacated. If the dog is ordered to be restrained or muzzled six weeks of a twelve month period, the Selectmen must issue a permanent order or restraint, muzzling or disposal of said animal.

Section 5. Appeal of Restraint or Muzzling - The owner or keeper of any dog that has been ordered to be restrained or muzzled of which has been restrained under this article, may within ten days after such order, bring a petition in the district court addressed to the justice of the court, praying that the order may be reviewed by the court, and after such notice to the officer or officers involved as the court may deem necessary, it shall review such action, hear the witnesses and affirm such order unless shall appear that it was made without proper cause or in bad faith, in which case such order shall be reversed. The decision of the court shall be final and conclusive upon the parties.



Section 6. Full Time Leash Law - Any person owning or harboring a dog shall not cause or allow said dog to roam at large in any of the streets or public ways or places within the confines of the Town of Walpole, or upon the premises of anyone other than the owner or keeper, unless the owner or occupant of such premises expressly grants permission.

Under no circumstances shall a dog even though secured by suitable lead be allowed on private property, unless specific permission has been granted by the owner of said property. No dog shall be permitted in any public place or on any public thoroughfare inclusive of the Town owned property and properties under the authority of the Commonwealth of Massachusetts that are situated in the Town of Walpole, unless said dog is restrained by a chain or lead not exceeding seven feet in length that is of suitable test for the size of the dog that is being restrained and is attended by a person of adequate age and discretion to properly control its actions; provided, however, that exceptions to this requirement of a chain or lead may be authorized by permit requested at least one month in advance of the event. The law in this section shall not be construed to limit the use of hunting dogs during the open hunting season, provided that the hunting season, (meaning woods, forest, hunting range). At large meaning a dog which is (1) unaccompanied by a person of adequate age and discretion to properly control its action, and (2) is unrestrained by a lead or chain of less than seven (7) feet that is of suitable test for the size of the dog being restrained.

\*\*At heel meaning a dog under complete control of a person of adequate age and discretion to control its actions as adequately as a dog that is on lead.

#### Section 7.

Unlicensed Dogs; Licensed Dogs Not Wearing Tags – Any dog within the limit of the Town unlicensed or not wearing a valid license tag, shall be impounded by the Animal Control Officer and not released until pound fees, in accordance with the General Laws, pickup fees, late licensing fee of twenty-five dollars, (if applicable), are paid and current license is obtained from the Town Clerk. If a dog who is six months old or older is unlicensed on March 1<sup>st</sup> in any year, the owner/keeper shall be subject to said late fee to be collected by the Town Clerk. The pickup fee shall be ten dollars with said fee to go to the Town of Walpole, unless the pound is maintained by the Dog Officer. Any dog not claimed within ten days will become the property of the Town of Walpole, and will be disposed of by the Animal Control Officer by whatever humane means are available.

Section 8. Dog in Estrus Cycle – If the Animal Control Officer determines that a dog in her estrus cycle, (even when confined to the property of her owner or keeper), is attracting other dogs to the area, which condition causes disturbance on or damage to neighboring property or public areas, he may pick up and impound the dog for the duration of her estrus cycle, releasing thereafter to the owner or keeper upon payment of pickup and pound fees; or the Animal Control Officer may require the owner or keeper to place and keep such dog, which in such cycle, in a commercial or boarding kennel, or to remove it from the area so that the nuisance is abated.

#### Section 9. Animal Control Officer

A. The Selectmen shall appoint one full-time Animal Control Officer to enforce the Rules and By-laws concerning dogs and warm-blooded animals in the Town of Walpole.

B. The Board of Selectmen shall establish a job description for the Animal Control Officer, and shall also establish the hours that shall be on duty and available to respond to complaints.

C. The main duties of the Animal Control officer are to insure that all dogs within the Town of Walpole are duly licensed and that all Rules and Regulations are strictly enforced. This office shall also have control over all warm-blooded animals similar to the control exercised over dogs.

D. During the hours of 10:00 p.m. – 7:00 a.m. seven days per week, the Police Department will act as Animal Control Officer coordinating with the full time Animal Control Officer or complaints received daily.

E. It shall be the duty of the Animal Control Officer to apprehend any dog found roaming at large in direct violation of Section 6 of the Walpole Dog Laws, and the corresponding provisions throughout Article XVII. The Animal Control Officer will impound said dog thereby making a complete registry, entering the breed, color and sex of the dog and whether it is licensed. If licensed, an entry of the name and address of the owner and the number of the license tag. The owner, if known, shall be notified as soon as possible that their dog has been impounded. The owner of any dog that has been impounded may claim said dog upon payment of all costs and charges levied by the Town including license fee, if unlicensed, and maintenance as provided by law.

F. The Animal Control Officer may hold or conduct hearings preliminary to Selectmen's hearing to possibly evaluate or adjudicate any complaints that arise that may be settled informally out of court.

Section 10. Pound and Equipment – The Board of Selectmen may select a commercial kennel facility with the Town or use the Animal Control Officer's facility to impound or keep dogs that have been apprehended by the Animal Control Officer as being strays or violators of the law, providing that both of the foregoing are within cost limitations and specifications set by the Board of Selectmen.

Section 11. No Dogs are allowed in any town owned cemeteries in the Town of Walpole or any town owned properties so posted.

Section 12. Fines and Penalties – Any owner or keeper of a dog who shall fail to comply with any of the provisions of the By-laws and laws governing dogs, shall be fined as follows:

A.	Failure to License Dogs	\$25.00
B.	Violation of Leash Law	
	1 <sup>st</sup> Offense	\$15.00
	2 <sup>nd</sup> Offense	\$25.00
	3 <sup>rd</sup> Offense	\$30.00
	4 <sup>th</sup> Offense	\$50.00
	5 <sup>th</sup> Offense	\$100.00

C. Dog Bite – The Animal Control Officer must make judgment as to severity and provocation of bite to determine processing and procedure of this violation.

1 <sup>st</sup> Offense	\$25.00
2 <sup>nd</sup> Offense	\$50.00
3 <sup>rd</sup> Offense	\$100.00
4 <sup>th</sup> Offense	Hearing before Selectmen

D. Dog found in School Yard – Additional to Section 11B. \$10.00

E. Complaints such as, but not limited to, barking, littering or defecating on sidewalks or private property.

1 <sup>st</sup> Offense	\$10.00
2 <sup>nd</sup> Offense	\$15.00

F. Failure to comply with order or restraint in accordance with General Laws, Chapter 140, Section 168: \$25.00

G. Failure to comply with notice to kill or confine in accordance with General Laws, Chapter 164: \$25.00

H. Failure to vaccinate cats and dogs against rabies in accordance with General Laws, Chapter 140, Section 145B:

\$50.00

I. Dogs on Posted Property

1 <sup>st</sup> Offense	\$25.00
2 <sup>nd</sup> Offense	\$30.00
3 <sup>rd</sup> Offense	\$40.00
4 <sup>th</sup> Offense	\$50.00

Section 13. No person shall intentionally ground feed any wild birds such as, ducks, geese, turkeys, or any wild animal in the Town of Walpole. In addition to enforcement by criminal complaint or civil suit for injunctive relief, this By-law may also be enforced by non-criminal complaint pursuant to the provisions of Massachusetts General Laws, C.40,sec.21D. Each day on which a violation exists shall be deemed to be a separate offence. The penalty for violation of this by-law shall be: \$25.00 for the first offense; \$50.00 for the second offense; \$100.00 for the third and each subsequent offense. The enforcing officers for the purpose of the By-law shall be the animal control officer, deputy animal control officer, and Health Agent.

## ARTICLE XVIII

### PERMANENT BUILDING COMMITTEE

Section 1. A Permanent Building Committee to be responsible for the construction of any additions to municipal buildings or construction of new municipal buildings in the Town and the acquisition of sites therefore. Said committee shall consist of seven members to be appointed by

the Board of Selectmen for a three year term. One member shall be a lawyer, one member shall be an engineer or architect, one member shall have experience in financial management, there shall be three members at large and the seventh member of the committee shall be serving currently on the particular construction project's petitioning Board, in the case of any school construction, the Superintendent of Schools will be a member ex-officio.

## ARTICLE XIX

### RECREATION COMMITTEE

Section 1. There shall be a Recreation Committee consisting of five (5) members appointed by the Board of Selectmen for three (3) year overlapping terms, so arranged that the terms of not more than two members shall expire each year.

Section 2. The Recreation Committee shall have full responsibility for and full charge of all recreation activities sponsored by the Town of Walpole, excluding only those under the jurisdiction of the School Department. The Committee shall have superintendence over all recreational plans to be sponsored, both short term and long range and they shall submit annually to the Town, a budget for the ensuing year, and shall make a report of their activities in the Annual Town Report.

Section 3. The Recreation Director, appointed by the Town Administrator, shall be subject to and under the control of the Recreation Committee.

## ARTICLE XX

### REPAIR OF PRIVATE WAYS

Section 1. Upon petition of fifty one percent of the abutters to a private way, the Board of Selectmen, by a majority vote, may declare that repairs to a private way are required to public necessity and convenience.

Section 2. Repairs may be made on private ways which have been opened to the public for six years or more. Such repairs may include the installation and construction of drainage and filling of holes in the subsurface of such ways and repairs to the surface material thereof. Materials for such repairs shall, where practical, be the same as or similar to those used for the existing surfaces of such ways with bituminous materials, including but not limited to bituminous concrete.

Section 3. The Board of Selectmen is hereby authorized to assess betterments upon the owners of estates which derive particular benefit or advantage from the making of such repairs on any such private way. Such assessment shall be a sum equal in the aggregate to the total cost of such repairs, and in the case of each such estate, in proportion to the frontage thereof on such way. Except as otherwise provided, the provisions of Chapter 80 of the General Laws relating to public improvements and assessments therefore shall apply to repairs to private ways ordered to be made under this By-law.

Section 4. The Town shall not be liable on account of any damage caused by such repairs made under this By-law.

## ARTICLE XXI

### VIOLATION AND SEVERABILITY OF BY-LAW

Section 1. Violation – Every violation of the provisions of the foregoing By-laws shall be punished as provided herein or as provided by the General Laws of the Commonwealth.

Section 2. Severability – The provisions of these By-laws are severable. If any provisions of these By-laws is held invalid, the other provisions of these By-laws shall not be affected thereby.

## ARTICLE XXII

### AMENDMENT AND REPEAL OF BY-LAW

Section 1. These By-laws may be repealed or amended at an Annual Town Meeting or at any other Town meeting specially called for the purpose, an article or articles for such purpose having been inserted in the warrant for such meeting.

## ARTICLE XXIII

### EFFECT OF PASSAGE

Section 1. These By-laws shall go into effect upon their acceptance by the Town of Walpole, and the approval and publication in the manner required by law and all By-laws heretofore existing are hereby repealed.

## ARTICLE XXIV

### TOWN OF WALPOLE WETLAND PROTECTION BY-LAW

#### Section 1: Purpose

The purpose of this bylaw is to protect wetlands, water resources, and adjoining land areas in this municipality by controlling activities deemed by the Conservation Commission likely to have significant or cumulative effect upon wetland values, including but not limited to the following: public or private water supply, ground water, flood control, water pollution, erosion and sedimentation control, storm damage prevention, fisheries, shellfish, wildlife habitat, recreation, esthetics, and agricultural values (collectively, the “wetland values protected by the bylaw”).

#### Section 2: Jurisdiction

Except as permitted by the Conservation Commission or as provided in this bylaw, no person shall remove, fill, dredge, build upon or alter protected resource areas as defined in Section 9.

### Section 3: Exceptions

The permit and applications required by this bylaw shall not be required for maintaining, repairing or replacing but not substantially changing or enlarging an existing and lawfully located structure or facility used in the service of the public to provide electric, gas, water, telephone, telegraph or other telecommunication services, provided that the structure or facility is not substantially changed or enlarged, provided that written notice has been given to the Commission prior to commencement of work, and provided that the work conforms to performance standards and design specifications in regulations adapted by the Commission.

The permit and application required by this bylaw shall not apply to emergency projects necessary for the protection of the health or safety of the public, provided that the work is to be performed by or has been ordered to be performed by an agency, the Commission, or a political subdivision thereof, provided that advance notice, oral or written, has been given to the Commission prior to commencement of work or within 24 hours after commencement, provided that the Conservation Commission or its agent certified the work as an emergency project, provided that the work is performed only for the time and place certified by the Conservation Commission for the limited purposes necessary to abate the emergency, and provided that within 21 days of commencement of an emergency project, a permit application shall be filed with the Commission for review as provided in this bylaw. Upon failure to meet these and other requirements of the Commission, the Commission may, after notice and public hearing, revoke or modify an emergency project approval and order restoration and mitigation measures.

Other than stated in this section, the exceptions provided in the Wetlands Protection Act shall not apply.

### Section 4: Application for Permits and Requests for Determination

Written application shall be filed with the Commission to perform activities regulated by this bylaw affecting resource areas protected by this bylaw. The application shall include such information and plans as are deemed necessary by the Commission to describe proposed activities. Such activities shall not commence without receiving and complying with a permit issued pursuant to this bylaw.

The Commission, in an appropriate case, may accept as the application and plans under this bylaw, the Notice of Intent and plans filed under the Wetlands Protection Act, M.G.L., Chapter 131, Section 40.

Any person desiring to know whether or not proposed activity on an area is subject to this bylaw may, in writing, request a determination from the Commission. Such a request for determination shall contain data and plans specified by the regulations of the Commission.

At the time of an application or request, the applicant shall pay a filing fee specified in the regulations of the Commission. This fee is in addition to that required by the Wetlands Protection Act, M.G.L., c. 131, Sec. 40. In addition, the Commission is authorized to require the

applicant to pay the costs and expenses of any expert consultant deemed necessary by the Commission to review the application or request up to a maximum of \$2,500. The Commission may waive the filing fee and costs and expenses for an application or request filed by a government agency and shall waive them for a request for determination filed by a person having no financial connection with the property which is the subject of the request.

## Section 5: Notice of Hearing

Any person filing an application or request for a determination with the Commission at the same time shall give written notice thereof, by certified mail or hand delivery, to all the abutters according to the most recent records of the assessors, including those across a traveled way or body of water. The notice to abutters shall enclose a copy of the application or request, with plans, or shall state where copies may be examined and obtained by abutters free of charge. When a person requesting a determination is other than the owner, the request, the notice of the hearing and determination itself shall be sent by the Commission to the owner as well as to the person making the request. The Commission shall conduct a public hearing on any application or request for determination, with written notice given at the expense of the applicant, five working days prior to the hearing, in a newspaper of general circulation in municipality.

The Commission shall commence the public hearing within 21 days from receipt of a completed application or request for determination.

The Commission shall issue its permit or determination in writing within 21 days of the close of the public hearing thereon.

The Commission in an appropriate case may combine its hearing under this bylaw with the hearing conducted under the Wetlands Protection Act, M.G.L., c. 131, Section 40.

The Commission shall have authority to continue the hearing to a date announced at the hearing, for reasons stated at the hearing, which may include receipt of additional information offered by the applicant or others, information and plans required of the applicant, deemed necessary by the Commission at its discretion, or comments and recommendations of boards and officials listed in Section 6. In the event the applicant objects to a continuance or postponement, the hearing shall be closed by the Commission and the Commission shall take action on such information as is available.

## Section 6: Coordination with the Other Boards

Any person filing a permit application or a request for determination with the Commission, shall provide a copy thereof at the same time, by certified mail or hand delivery to the Town Board of Selectmen, Planning Board, Board of Appeals, Board of Health, Building Inspector, and the Town Engineer. The Commission shall take no final action until such boards and officials have had 14 days from the receipt of the notice to file written comments and recommendations with the Commission, which the Commission shall take into account but which shall not be binding on the Commission. The applicant shall have the right to receive any such comments and recommendations, and to respond to them at a hearing of the Commission, prior to final action.

## Section 7: Permits, Determinations, and Conditions

If the Commission, after a public hearing, determines that the activities which are the subject of the application are likely to have significant or cumulative effect upon the wetland values protected by this bylaw, the Commission, within 21 days of the close of the hearing, shall issue or deny a permit for the activities requested. If it issues a permit, the Commission shall impose conditions which the Commission deems necessary or desirable to protect those values and all activities shall be done in accordance with those conditions.

The Commission is empowered to deny a permit for failure to meet the requirements of this bylaw, for failure to submit necessary information and plans requested by the Commission; for failure to meet the design specification, performance standards, and other requirements in regulations of the Commission; for failure to avoid or prevent unacceptable significant cumulative effects upon the wetland values protected by this bylaw; and where no conditions are adequate to protect those values. Due consideration shall be given to any demonstrated hardship on the applicant by reason of denial, as presented at the public hearing.

A permit shall expire three years from the date of issuance. Notwithstanding the above, the Commission, at its discretion, may issue a permit expiring five years from the date of issuance for recurring or continuous maintenance work provided that annual notification of time and location of work is given to the Commission. Any permit may be renewed once for an additional one year period, provided that a request for a renewal is received in writing by the Commission prior to expiration.

For good cause, the Commission may revoke or modify a permit issued under this bylaw after public notice, public hearing and notice to the holder of the permit. The Commission, in an appropriate case, may combine the permit or other action on an application issued under this bylaw with the Order of Conditions issued under the Wetlands Protection Act.

## Section 8: Regulations

After public notice and public hearing, the Commission shall promulgate rules and regulations to effectuate the purpose of this bylaw. Failure by the Commission to promulgate such rules and regulations or a legal declaration of their invalidity by a court of law shall not act to suspend or invalidate the effect of this bylaw.

## Section 9: Definitions

The following definitions shall apply in the interpretation and implementation of this bylaw.

Abutter - is any landowner, as determined by the most recent assessors' records, whose land abuts the property that is the subject of the Notice of Intent or whose land lies directly across any street, road, river, stream, brook or creek from the said property, or whose land is within 300 feet of the subject property.

Alter - shall include, without limitation, the following activities when undertaken to, upon, within or affecting areas protected by this bylaw:

A. Removal, excavation or dredging of soil, sand, gravel, or aggregate materials of any kind;



- B. Changing of pre-existing drainage characteristics, flushing characteristics, sedimentation patterns, flow patterns, or flood retention characteristics;
- C. Drainage or other disturbance of water level or water table;
- D. Dumping, discharging or filling with any material which may degrade water quality;
- E. Placing of fill, or removal of material, which would alter elevation;
- F. Driving of piles, erection or repair of buildings, or structures of any kind;
- G. Placing of obstructions or objects in water;
- H. Destruction of plant life including cutting trees;
- I. Changing water temperature, biochemical oxygen demand, or other physical or chemical characteristics of water;
- J. Any activities, changes or work which may cause or tend to contribute to pollution of any body of water or ground water.

Applicant - as used in these regulations, shall mean a person giving notice of intention to remove, fill, dredge, build upon, or alter, or a person on whose behalf such a notice is filed.

Bank – is defined as it is in 310 CMR 10.00.

Bog – See Marsh

Freshwater Wetland – is defined as it is in M.G.L. Chapter 131, Section 40.

Land Actively Devoted to Agricultural Use – is defined as it is in 310 CMR 10.00.

Land Subject to Flooding or Inundation – is defined as it is in 310 CMR 10.00

Normal Maintenance and Improvement – shall be defined as it is in 310 CMR 10.00.

Marsh, Bog, Wet Meadow and Swamp – are defined as they are in M.G.L. Chapter 131, Section 40, and are collectively known as vegetated wetlands. Credible evidence as to wetland affinities of other vegetation in an area shall be considered in making wetland determinations.

Person – shall include any individual, group of individuals, association, partnership, corporation, company, business organization, trust, estate, the commonwealth or political subdivision thereof to the extent subject to town bylaws, administrative agency, public or quasi-public corporation or body, this municipality, and any other legal entity, its legal representatives, agents, or assigns.

Protected Resource Area – shall mean the following areas: any bank, freshwater wetland, marsh, bog, wet meadow, swamp, stream, river, pond, lake, vernal pool, or any land bordering thereon, or any land subject to flooding or inundation. Bordering in this context shall mean either (a) 100 feet horizontally lateral from any of the foregoing areas; or (b) 100 feet horizontally lateral from the water elevation of the 100 year storm, whichever is the greater of (a) or (b); and (c) land within 200 feet of the mean annual high-water line of any year round river or stream.

Swamp – See Marsh

Wet Meadow – See Marsh

## Section 10: Security

As part of a permit issued under this bylaw in addition to any security required by any other municipal or state board agency or official, the Commission may require that the performance and observance of the conditions imposed hereunder be secured wholly or in part by one or more of the methods described below:

- A. By a proper bond or deposit of money or negotiable securities or other undertaking of financial responsibility sufficient in the opinion of the Commission;
- B. By a conservation restriction, easement or other covenant enforceable in a court of law, executed and duly recorded by the owner of record, running with the land to the benefit of this municipality whereby the permit conditions shall be performed and observed before any lot may be conveyed other than by mortgage deed.

## Section 11: Enforcement

The Commission, its agents, officers, and employees shall have authority to enter upon privately owned land for the purpose of performing their duties under this bylaw and make or cause to be made such examination surveys or sampling as the Commission deems necessary.

The Commission shall have authority to enforce this bylaw, its regulations, and permits issued thereunder by violation notices, administrative orders, and civil and criminal court actions. Upon request of the Commission, the City Council/Board of Selectmen and the City Solicitor/Town Counsel shall take legal action for enforcement under civil law. Upon request of the Commission, the Chief of Police shall take legal action for enforcement under criminal law. Municipal boards and officers, including any police officer or other officer having police powers, shall have authority to assist the Commission in enforcement.

Any person who violates any provision of this bylaw, regulations thereunder, or permits issued thereunder, shall be punished by a fine of not more than \$300 each day or portion thereof during which a violation continues shall constitute a separate offense, and each provision of the bylaw, regulations, or permit violated shall constitute a separate offense.

In the alternative to criminal prosecution, the Commission may elect to utilize the non-criminal disposition procedure set forth in M.G.L. c. 40, Section 21D.

## Section 12: Burden of Proof

The applicant for a permit shall have the burden of proving by a preponderance of the credible evidence that the work proposed in the application will not have unacceptable significant or cumulative effect upon the wetland values protected by this bylaw. Failure to provide adequate evidence to the Commission supporting this burden shall be sufficient cause for the Commission to deny a permit or grant a permit with conditions.

## Section 13: Relation to the Wetlands Protection Act

This bylaw is adopted under the Home Rule Amendment of the Massachusetts Constitution and the Home Rule statutes, independent of the Wetlands Protection Act, M.G.L., c. 131, Section 40, and regulations thereunder.

## Section 14: Severability

The invalidity of any section or provision of this bylaw shall not invalidate any other section or provision thereof, nor shall it invalidate any permit or determination which previously has been issued.

## FILING PROCEDURE

### Procedure for Filing a Notice of Intent

A complete Notice of Intent Application must contain the following

- A. A complete Notice of Intent form (Form 3 or Form 4).
- B. A certified copy of the abutters list within 300 feet of the proposed project.
- C. A site locus map.
- D. Necessary plans for the project, supporting data and calculations.

The following steps are necessary for the submittal of the Notice of Intent:

- 1. 8 copies of the Notice of Intent and associated plans are to be given to the Conservation Commission secretary for distribution to the various boards.
- 2. 2 copies of the Notice and the plans must be sent to the D.E.P. by certified mail and a copy should be forwarded to the Army Corp. of Engineers.
- 3. Filing fee checks must accompany the filing – state fees and town fee as determined by the filing fee schedule of 1997.
- 4. The additional plans are sent to individual town boards for their comments: Board of Health, Town Engineer, Board of Appeals, Board of Selectmen, Building Inspector, Planning Board.
- 5 The filing fee check(s) will be deposited with the Treasurer and recorded in the Conservation Commission's ledger.
- 6 A hearing date will be scheduled according to the Conservation Commission case load.
- 7 A legal notice is typed for placement in the Walpole Times one week prior to the scheduled hearing. A copy of this typed notice will be sent to the applicant for use in notifying abutters. The applicant is required to mail out these notifications and return them the night of the scheduled hearing with evidence that at least 50% of the letters have been received.

#### D.E.P. and Army Corp. of Engineers Addresses

Department of Environmental Protection  
 Northeast Regional Office  
 Ten Commerce Way  
 Woburn, Massachusetts 01801

Department of the Army  
 New England Division, Corps. Of Engineers  
 424 Trapelo Road  
 Waltham, Massachusetts 02254-9149

Any questions regarding the Walpole Wetlands Bylaw should be directed to the Walpole Conservation Commission, (508) 660-7268

#### ARTICLE XXV

#### Sewer By Laws

Section 1. The Board of Sewer and Water Commissioners may declare that any sewer in any land or private, opened or proposed to be opened for public travel, shall be a common sewer. No such sewer shall be laid or connected with any existing common sewer except by the Board of Sewer and Water Commissioners. This By-law shall apply to existing sewers as well as those hereafter laid in any such land or way.

Section 2. No appropriation for a sewer extension shall be made unless a signed petition of at least two-thirds of all abutters of such proposed extension shall have been submitted to the Board of Sewer and Water Commissioners requesting said extension, expressing support for assessment of betterments or other available methods of financial contribution by abutters to such extension, and setting forth a commitment by said abutters to connect buildings on their land to said extended sewer, unless such land would qualify for a waiver granted by the Board of Health from said commitment based upon the conditions set forth in Article X. Section 1 (a) through (d) of these By-laws.

Section 3.

- A. The Board of Sewer and Water Commissioners shall assess public sanitary sewerage construction costs to all properties receiving benefit from the sewer on the basis of the uniform unit method under the provisions of Chapter 172 of the Acts of 1977, and Chapter 83 of the General Laws of Massachusetts and the Rules and Regulations of The Board of Sewer and Water Commissioners.
- B. In the Order of Assessment, the Board of Sewer and Water Commissioners shall designate as the owner of each parcel liable to the assessment, the owner of record on the preceding January 1 under the provisions of Chapter 80, Section 4 of the General Laws of Massachusetts.
- C. The owners served by the project shall be assessed seventy-five percent (75%) of the total cost of the project to the Town. The project cost shall include total costs of engineering, survey, and design, land and easements, construction, resident engineering, and all other material, labor, and other expenses incidental thereto, and shall be ascertained, assessed and certified by the Board of Sewer and Water Commissioners in consultation with the Director of Public Works once the project is completed.
- D. A portion of the costs of the general benefit facilities may be apportioned by the uniform unit method on all developed and undeveloped areas to receive benefit or advantage within the pumping district or combination of districts. The cost of the general benefit facilities, attributable to undeveloped land not abutting a sewer street, may not be assessed until the property is serviced by public sewerage. The proportional cost of the special benefit and general facilities shall be assessed against all properties abutting a sewer street.
- E. Sewerage construction costs is to be divided between the total number of existing and potential sewer units to be served after having proportioned the cost of the special and general benefit facilities. Properties receiving benefit from the sewerage system shall be converted into sewer units; land areas and/or buildings previously assessed or charged a sewer entrance fee for a prior project and not specially benefiting by this project shall not be included when establishing the sewer units. Each sewer unit shall be equal to a single-family dwelling unit. Potential sewer units shall be calculated on the basis of zoning then in effect. Existing and potential multi-family, commercial, industrial, and semi-public uses shall be converted into sewer units on the

basis of general residence single-family dwelling unit equivalents in accordance with the method describe in the Rules and Regulations of the Sewer and Water Commissioners.

- F. The owners who are assessed sewer betterments will have the option of paying the betterment immediately or paying over a number of years up to a maximum total of twenty (20) years. Such property owners shall have the right to pay off the remaining balance of a betterment at any time. When a property with a sewer betterment is conveyed to another party, the remaining balance of the betterment may be paid or the obligation of the sewer betterment, may be transferred to the new property owner.
- G. Unpaid assessment shall bear interest at a rate equal to two percent (2%) above the rate of interest chargeable to the Town for the betterment project to which the assessments relate, or five percent (5%), whichever is higher, from the thirtieth day after commitment to the Tax Collector. The Treasurer in accordance with this section shall determine the rate.
- H. The Board of Sewer and Water Commissioners shall, upon the application of the owner of the real property assessed, if such owner is eligible for an elderly property tax exemption under G.L. Chapter 59, Sub-section 5, Clause 41A, enter into a deferral and recovery agreement with such owner, provided that such application is received within six months after notice of such assessment has been sent out by the Tax Collector and provided that said agreement shall contain the provisions set forth in Chapter 80, Section 13B of the General Laws of Massachusetts.

Notwithstanding the foregoing, an appropriation for a sewer extension may be made upon the recommendation of the Board of Sewer and Water Commissioners or Board of Health that such extension is in the best interests of the Town or if necessary to comply with a state or federal law or an order of state or federal agency or court.

## ARTICLE XXVI

### SCENIC ROADS

#### Section 1. ADOPTION AND PURPOSE

The Town of Walpole adopts the following by-law pursuant to M.G.L. c. 40, Section 15C, so as to accomplish the following purposes and considerations:

- A. Preservation of natural resources;
- B. Environmental and historical values;
- C. Scenic and aesthetic characteristics;
- D. Public Safety;
- E. Traffic volume and congestion;
- F. Relationship of road design to the standards of the Walpole Planning Board's

Subdivision Regulations and of the Massachusetts Highway Department;

- G. Compensatory actions proposed such as replacement trees or wall;
- H. Functional urgency of the repair, maintenance, reconstruction or paving;
- I. Financial and other consequences of design revision to avoid or reduce damage to trees or stone walls;
- J. Evidence contributed by abutters, town agencies and other interested parties;
- K. Other sound planning consideration.

## Section 2. DEFINITIONS

- A. Road - Shall mean a right-of-way of any way including the vehicular-traveled way plus its necessary appurtenances within the right-of-way including bridge structures, drainage system, retaining walls, traffic control devices, and side-walks, but not intersecting streets or driveways.
- B. Cutting or Removal of Trees - Shall mean the destruction of one (1) or more tree trunks of a diameter of four inches (4") or more measured one foot (1') from the ground, or for the cutting of any branches resulting in the reduction of ten per cent (10%) or more of a tree or trees.
- C. Tearing Down or Destruction of Stone Walls - Shall mean the destruction of more than fifteen (15) linear feet of stone wall involving more than one (1) cubic foot of wall material per linear foot above existing grade, but shall not be construed to include temporary removal and replacement at the same location with the same materials.

## Section 3. PROCEDURES

### A. Filing

Any person or organization seeking the consent of the Planning Board pursuant to this by-law regarding the cutting or removal of trees or the tearing down or destruction of stone walls, or portions thereof, in connection with the repair, maintenance, reconstruction or paving work on Scenic Roads, shall, through the Board of Selectmen, submit a request to the Planning Board together with the following:

1. The text of a legal notice identifying the location of the proposed action in terms enabling readers to reasonably locate it on the ground without need for additional plats or references, and describing the proposed

changes to trees and stone walls;

2. A list of the owners of land abutting the scenic road on which the proposed work is to be performed, and, if the proposed work is only for a section of a scenic road, a list of the owners of land abutting and within one-hundred (100) feet of the section;
3. Except in the case of town agencies, a deposit sufficient for the cost of advertising and notification;
4. A plan and explanatory material found adequate by the Town Engineer to inform the Planning Board prior to the public hearing, showing the trees and walls to be affected;
5. A certificate by the petitioner attesting to the marking of all trees and walls to be affected, sufficient to enable the Board and all interested parties to identify those trees and walls. Notice of submittal shall be concurrently filed with the Town Clerk.

B. Notice

The Planning Board shall, as required by General Laws c. 40, Section 15C, give notice of its public hearing by twice advertising in a newspaper of general circulation in the area. The Board shall also send copies of that notice to the Selectmen, Conservation Commission, Historical Commission, Town Engineer, Tree Warden, Department of Public Works, and owners of property within one-hundred (100) feet of the proposed action.

C. Timing

The Planning Board shall hold a hearing within thirty (30) days from the date on which notice of submittal is received by the Town Clerk, and shall issue a decision within forty-five (45) days of that receipt, unless a longer time is agreed to by the applicant.

D. Tree Warden

Whenever feasible, Planning Board hearings shall be held in conjunction with those to be held by the Tree Warden acting under M.G.L. c 87. Consent to an action by the Planning Board shall not be construed as inferring consent by the Tree Warden, or vice versa.

E. Planning Board Regulations

The Planning Board is authorized to adopt such regulations as it deems necessary and proper in carrying out its duties under this By-law.

## F. Enforcement

No person shall perform any repairs, maintenance, construction, reconstruction or paving on any road designated as a Scenic Road, involving the cutting or removal of trees or the tearing down or destruction of a stone wall or portion thereof, without the prior written consent of the Planning Board as set forth in this By-law. The provisions of this By-law shall be enforced by the Tree Warden and any police officer of the Town of Walpole.

A violation of this By-law shall be punished by a fine of three hundred dollars (\$300.00). Each day in violation of this By-law shall be considered a separate offense. This By-law may be enforced through criminal complaint or by non-criminal disposition in accordance with M.G.L. c40, Section 21D.

## ARTICLE XXVII DEMOLITION DELAY BYLAW/HISTORIC PROPERTY (BUILDING AND /OR STRUCTURE)

### Section 1

This bylaw is enacted for the purpose of protecting and preserving significant buildings and/or structures and aesthetic resources within the Town of Walpole which constitute or reflect distinctive features of the architectural or historical resources of the Town and to encourage owners of such buildings and/or structures to seek out alternative options to preserve, rehabilitate or restore such buildings and/or structures rather than to demolish them, thereby promoting the public welfare and preserving the cultural heritage of the Town. To achieve these purposes the Walpole Historical Commission is authorized to advise the Inspector with respect to the issuance of permits for the demolition of significant buildings and/or structures. The issuance of demolition permits for significant buildings and/or structures is regulated as provided by this bylaw.

### Section 2. Definitions

- A. Commission - The Walpole Historical Commission.
- B. Building – Any combination of materials forming a shelter for persons, animals, or property.
- C. Structures – Bridges, dams, towers, stacks, etc.
- D. Demolition – Any act of pulling down, destroying, removing or razing a building and/or structure or commencing the work of total or substantial destruction with the intent of completing the project.
- E. Demolition Permit – The permit issued by the Inspector as required by the State Building Code for a demolition, substantial demolition or removal of a building and/or structure.
- F. Inspector – The person occupying the office of Building Inspector or the person otherwise authorized to issue demolition permits.
- G. Architecturally or Historically significant building and/or structure - Any building and/or structure which is at least 100 years old and



1. Importantly associated with one or more historic persons or events, or with the architectural, cultural, political, economic or social history of the Town of Walpole, the Commonwealth of Massachusetts, or the United States of America, or which is
  2. Historically or architecturally important by reason of period, style, method of construction, or association with a particular architect or builder, either by itself or in the context of a group of buildings and/or structures.
- H. Preferably preserved - Any historically significant building and/or structure which, because of the important contribution made by such building and/or structure to the Town's historical or architectural resources, is in the public interest to preserve, rehabilitate, or restore rather than to demolish.
- I. Premises - The parcel of land on which an historically significant building and/or structure is or was located.

### Section 3. Regulated Buildings and/or Structures

The provisions of this bylaw shall apply only to the following buildings and/or structures and:

- A. Buildings and/or structures listed on or within an area listed on the National Register of Historic Places or the State Register of Historic Places, or the subject of a pending application for listing on said national or state registers.
- B. Buildings and/or structures which were constructed one hundred (100) or more years prior to the date of the application for the demolition permit.
- C. Notwithstanding the above, the provisions of this bylaw shall not apply to any buildings and/or structures located in a local historic district and subject to regulation under the provisions of General Laws Chapter 40C.

### Section 4. Procedure

- A. No permit for the demolition of a building and/or structure which is at least one hundred (100) years or more old or listed on or within an area listed on the National Register of Historic Places or the State Register of Historic Places, or the subject of a pending application for listing on said national or state registers, or otherwise subject to the provisions of this bylaw as provided in Section 3 herein, shall be issued other than in conformity with the provisions of this bylaw, as well as in conformity with the provisions of other laws applicable to the demolition of buildings and/or structures and issuance of permits generally.
- B. Every application for a demolition permit for a building and/or structure at least one hundred (100) years or more old or listed on or within an area listed on the National Register of Historic Places or the State Register of Historic Places, or the subject of a pending Application for listing on said national or state registers, or otherwise subject to the provisions of this bylaw as set forth in Section 3 herein, shall be filed with the

Inspector and shall contain the following information: (i) the address of the Building and/or Structure to be demolished, (ii) the owner's name, address and telephone number, (iii) a brief description of the type of the building and/or structure and the condition requiring issuance of the permit, (iv) the date of the building and/or structure as established by the Board of Assessors, deed or documentation verifying year of construction and (v) a brief description of the proposed reuse, reconstruction or replacement on the premises upon which the building and/or structure is located.

- C. Within five (5) working days from receipt of an application for a demolition permit of a building and/or structure one hundred (100) years or older, the Inspector shall forward a copy to the Commission. No demolition permit shall be issued during this time.
- D. Within fifteen (15) working days after receipt of the application for a demolition permit by the Commission, the Commission shall make a Determination of Architectural and/or Historical Significance. Upon determination by the Commission that the building and/or structure is not architecturally and/or historically significant, the Commission shall so notifying the Inspector in writing. Upon receipt of such notification, or after the expiration of twenty (20) working days from the date of submission to the Commission, if the Inspector has not received notification from the Commission, the Inspector may issue the demolition permit.
- E. Upon a determination by the Commission that the building and/or structure is historically and/or architecturally significant, the Inspector and the applicant shall be so notified in writing, and a demolition permit shall not be issued. The Commission shall hold a public hearing within twenty (20) working days of the Determination of Significance to determine whether the building and/or structure should be preferably preserved. Public notice of the time, place and purpose of the hearing shall be published by the Inspector at the expense of the applicant in a newspaper of general circulation in the Town not less than seven (7) days before the day of said hearing and shall be posted in a conspicuous place in the Town Hall for a period of not less than seven (7) days before the day of said hearing.
- F. If, after a public hearing, the Commission determines that the significant building and/or structure should not be preferably preserved, the Commission shall notify the Inspector, in writing, within five (5) working days of the hearing and the Inspector may issue a demolition permit upon receipt of the written decision or after the expiration of five (5) working days of the hearing if the Inspector has not received notification from the Commission, subject to the requirements of the State Building Code and any other applicable laws, bylaws, rules and regulations.
- G. If, after a public hearing, the Commission determines that the significant building and/or structure should be preferably preserved, the Commission shall so notify the Inspector, in writing, within five (5) working days of the hearing, and no demolition permit may be issued until six (6) months after the date of the determination by the Commission.

## Section 5. Exceptions

Notwithstanding anything contained in paragraph 4.7, the Inspector may issue a

demolition permit for a preferably preserved building and/or structure at any time after receipt of written advice from the Commission to the effect that the Commission is satisfied with either of the following:

- A. There is no reasonable likelihood that either the owner or some other person or group is willing to purchase, preserve, rehabilitate, or restore such building and/or structure.
- B. For at least six (6) months the owner has made continuing, bona fide, and reasonable efforts to locate a purchaser to preserve, rehabilitate, or restore such building and/or structure, and that such efforts have been unsuccessful.

#### Section 6. Responsibility of Owner(s)

It shall be the responsibility of the owner of record or his designee to assist in the facilitation of the above process by providing information, allowing access to the property and securing the premises, for participating in the investigation of preservation options and for actively cooperating in seeking alternatives with the Commission and any interested parties.

#### Section 7. Emergency Demolition

Nothing in this bylaw shall restrict the Inspector from immediately ordering the demolition of any building and/or structure upon the written request of the owner in the event of imminent danger to the safety of the public. Nor shall this bylaw be construed as derogating from the authority of the Inspector to act pursuant to Mass. G.L. c.143, the authority of the Board of Health to act pursuant to Mass. G.L. c.111, 127B or 105 CMR 420.831-420.960 or from the authority of the Board of Selectmen to act pursuant to Mass. G.L. c.139.

#### Section 8. Enforcement

The Commission and/or the Inspector are each specifically authorized to institute any and all actions and proceedings, in law or equity, as they may deem necessary and appropriate to obtain compliance with the requirements of this bylaw or to prevent a threatened violation thereof or to require restoration of the premises to their condition prior to a violation of this bylaw. No building permit shall be issued with respect to any premises upon which a significant building and/or structure has been voluntarily demolished in violation of this bylaw for a period of two (2) years after the date of the completion of such demolition.

#### Section 9. Severability

If any section, paragraph, or part of this bylaw be, for any reason, declared invalid or unconstitutional by any court, every other section, paragraph, and part shall continue in full force and effect.

## Walpole By-Laws Glossary

<b>Year</b>	<b>TM Article</b>	<b>By-Law No.</b>	<b>Date</b>
1974	65	MULTIPLE	SPC 4/10
1975	3	13(XIII)	ATM 6/2
1975	38	(VIII)	SPC 8/21
1975	17	8(VIII)	SPC 8/21
1976	69	6(VI)	ATM 4/21
1976	7	8(XIII)	SPC 9/27
1976	6	9(IX)	SPC 9/27
1977	60	17(XVII)	ATM 3/3
1977	61	6(VI)	ATM 3/3
1978	13	13(XIII)	FTM 10/16
1978	24	6(VI)	FTM 10/18
1978	26	MULTIPLE	FTM 10/18
1979	14	13(XIII)	FTM 10/15
1979	15	13(XIII)	FTM 10/15
1979	16	13(XIII)	FTM10/15
1979	17	3(III)	FTM10/15
1980	5	8(VIII)	FTM 10/20
1980	35	9(IX)	ATM 4/28
1980	6	9(IX)	FTM 10/20
1981	10	16(XVI)	FTM 11/4
1982	58	17(XVII)	ATM 4/14
1983	13	24(XXIV)	FTM 10/17
1983	12	MULTIPLE	FTM 10/17
1984	17	15(XV)	FTM 10/24
1984	18	15(XV)	FTM 10/24
1984	19	15(XV)	FTM 10/29
1984	23	24(XXIV)	FTM 10/29
1986	16	10(X)	FTM 11/3
1986	10	24(XXIV)	SPC 4/28
1986	34	3(III)	ATM 4/16
1986	17	3(III)	FTM 11/3
1986	7	9(IX)	SPC 4/28
1987	27	17(XVII)	FTM 10/21
1987	21	3(III)	FTM 10/21
1988	11	13(XIII)	FTM 10/19
1988	56	15(XV)	ATM 4/13
1988	45	17(XVII)	ATM 4/11
1988	13	25(XXV)	SPC 6/27
1989	30	10(X)	FTM 10/23
1989	31	17(XVII)	FTM 10/25
<b>Year</b>	<b>TM Article</b>	<b>By-Law No.</b>	<b>Date</b>

1989	41	6(VI)	ATM 4/12
1990	23	10(X)	ATM 4/11
1990	26	10(X)	ATM 4/11
1990	9	10(X)	FTM 10/17
1990	10	10(X)	FTM 10/17
1990	8	3(III)	FTM 10/15
1991	7	17(XVII)	SPC 5/1
1991	6	9(IX)	SPC 5/1
1992	21	13(XIII)	ATM 4/6
1992	22	13(XIII)	ATM 4/6
1993	37	13(XIII)	ATM 4/12
1993	5	13(XIII)	FTM 10/18
1994	23	13(XIII)	FTM 10/24
1994	59	13(XIII)	FTM 10/26
1994	60	17(XVII)	FTM 10/26
1995	42	18(XVIII)	ATM 4/3
1995	11	13(XIII)	FTM 10/16
1995	12	13(XIII)	FTM 10/16
1995	13	10(X)	FTM 10/16
1996	11	26(XXVI)	FTM 10/21
1996	22	15(XV)	FTM 10/21
1996	23	13(XIII)	FTM 10/21
1997	13	3 (III)	STM 4/7
1997	64	13(XIII) Section 21	STM 4/23
1997	17	17(XVII)Section 7	FTM 10/20
1997	21	Section XXIV	FTM 10/20
1998	51	11 & 12 (XVII)	STM 4/6
1998	10	Section 3 (I)	FTM 10/19
1998	21	Section 11 (III)	FTM 10/21
1998	22	(XXVII)	FTM 10/28
1999	35	XXV	STM 4/12
1999	16	XIII (Section 12)	FTM 10/20
1999	17	III (Section 8)	FTM 10/20
1999	19	Section III (Section 12)	FTM 10/20
2000	2	III (Section 12 correction) (correction from FTM99 should have been the words Article, Not Section III)	SPTM 1/24
2000	6	XVII, New Section 13	FTM 10/16
2000	9	III, Amend Section 11	FTM 10/16

<b>Year</b>	<b>TM Article</b>	<b>By-Law No.</b>	<b>Date</b>
2001	17	XVII	FTM 10/15
2001	18	XXV	FTM 10/15
2001	19	I	FTM 10/17
2001	19	II	FTM 10/17
2001	19	III	FTM 10/17
2001	19	IV	FTM 10/17
2001	19	V	FTM 10/17
2001	19	VI	FTM 10/17
2001	19	VII	FTM 10/17
2001	19	VIII	FTM 10/17
2001	19	IX	FTM 10/17
2001	19	XI	FTM 10/17